

TOWN OF WAKEFIELD, NH
ZONING ORDINANCE

With Amendments through March 14, 2017

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ARTICLE 1 – TITLE

This document shall be referred to as “Town of Wakefield, NH Zoning Ordinance, as amended.”

ARTICLE 2 - PURPOSE AND AUTHORITY

The purpose of this Zoning Ordinance is to implement the adopted Town of Wakefield Master Plan, to lessen congestion in the streets; secure safety from fires, panic, and other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; facilitate the adequate provision of transportation, solid waste facilities, water, sewerage, schools, parks, child day care; and assure proper use of natural resources and other public requirements.

This Ordinance shall also help to retain the natural beauty of Wakefield; encourage the most appropriate use of land; stabilize the value of land and buildings; and, facilitate the economical provision of future required utilities and facilities.

This Zoning Ordinance is also intended to promote economic and social prosperity in Wakefield, as well as to provide for harmonious and aesthetically pleasing development, which is consistent with the character and rural setting of the town.

This Ordinance is adopted pursuant to the authority granted to municipalities by RSA 674:16 and in accordance with all applicable state statutes.

ARTICLE 3 – TABLES

Table 1 – Permitted Uses

	Residential I	Residential II (Shorefront)	Residential III (Rural)	Business & Commercial	Village/ Residential	Light Industrial	Agricultural	Farming- Prime Soils (O)¹	Aquifer- Conservation (O)²	Wetland- Conservation (O)³	Historic (O)⁴	Floodplain (O)⁵
RESIDENTIAL												
Single-Family Dwelling	P	P	P	C	P	N	P	A	A	N	A	A
Two-Family Dwelling (Duplex)	P	P	P	C	P	N	P	A	A	N	A	A
Multi-Family Dwelling	P	N	P	N	P	N	P	A	A	N	A	A
Manufactured Home ⁶	P	N	P	N	N	N	P	A	A	N	N	A
Housing for Older Persons	P	N	P	N	P	N	P	A	A	N	A	A
Residential Garage	P	P	P	N	C	N	P	A	A	N	A	A
Accessory Use	P	P	P	P	P	P	P	A	A	N	A	A
In-Law Apartment	P	P	P	P	P	N	P	A	A	N	A	A
Open Space Subdivision	P	C ⁷	P	N	N	N	P	A	A	N	A	A
Private Boat Launch	N	P	N	N	C	N	N	A	A	A	A	A
Private Campsite ⁸	P	P	P	N	N	N	P	A	A	N	A	A
MISCELLANEOUS USES												
Mixed Uses	C	C	C	C	P	N	C	A	A	N	A	A
Temporary Structure ¹⁰	P	P	P	P	P	P	P	A	A	N	A	A
BUSINESS & COMMERCIAL												
Assisted Living/ Life Care Facility	P	C	P	N	P	N	P	A	A	N	A	A
Automotive Repair Shop ¹¹	N	N	C ⁹	P	P	P	C ⁹	A	N	N	A	A
Bed & Breakfast	C	C	P	P	P	N	P	A	A	N	A	A
Boat Launch Facility	N	C	N	N	C	N	N	A	A	N	A	A
Boat and Marine Craft Dealer	N	C ⁹	C ⁹	P	P	P	C ⁹	A	A	N	A	A
Car Wash and Car Detailing Center	N	N	N	P	N	P	N	A	A	N	A	A
Home Based Contractor Yard ¹²	N	N	P ⁹	N	N	N	P	A	N	N	N	A
Home Business ¹³	P	P	P	C	P	N	P	A	A	N	A	A

	Residential I	Residential II (Shorefront)	Residential III (Rural)	Business & Commercial	Village/ Residential	Light Industrial	Agricultural	Farming- Prime Soils (O) ¹	Aquifer- Conservation (O) ²	Wetland- Conservation (O) ³	Historic (O) ⁴	Floodplain (O) ⁵
BUSINESS & COMMERCIAL (cont.)												
Home Industry ¹³	N	N	C	N	N	N	C	A	A	N	N	A
Hotel, Motel, Motor Inn	N	N	N	P	N	N	N	A	A	N	A	A
Laundromat	N	N	C ⁹	P	P	N	C ⁹	A	A	N	A	A
Marina	N	C	N	N	N	N	N	A	A	N	A	A
Museum	N	N	C	P	P	N	C	A	A	N	A	A
Nano Brewery	N	N	C ¹⁴	P	N	P	C ¹⁴	A	A	N	A	A
Office	C ⁹	N	C ⁹	P	P	N	C	A	A	N	A	A
On-Site Hazardous Waste or Toxic Material Storage ¹⁵	N	N	N	N	N	N	N	A	N	N	N	N
Outdoor Storage of (1) Road Salt or (2) Deicing Chemicals, or Snow Contaminated with (1) or (2) ¹⁵	N	N	N	N	N	N	N	A	N	N	N	N
Personal Wireless Service Facility/ Telecommunication Facility	P ¹⁶	P ¹⁶	P	P	P	P	P	A	A	N	A	A
Personal Service (Such as hair dresser, nail salon, masseuse)	N	N	N	P	P	N	N	A	A	N	A	A
Small Engine Repair Service	C ⁹	N	C ⁹	P	C	P	C ⁹	A	A	N	A	A
Restaurant, drive thru	N	N	N	N	N	N	N	A	N	N	N	N
Restaurant, drive thru (w/ 5 – 19 seats)	N	N	N	P	N	N	N	A	A	N	A	A
Restaurant, restricted operation, less than 60 seats	C	C	C	P	P	N	C	A	N	N	A	N
Restaurant, standard	N	N	N	P	P	N	N	A	A	N	A	A
Retail Sales, max 25,000 sq.ft.	N	N	N	P	P	N	N	A	A	N	A	A
Rooming/ Boarding House	N	N	N	N	P	N	N	A	A	N	A	A
Snack Bar	P	P	P	P	P	N	P	A	A	A	A	A
Pharmacy or Drugstore w/ or w/o other retail sales	N	N	N	P	P	N	N	A	A	A	A	A
Convenience Store not exceeding 10,000 sq.ft.	N	C	N	P	P	N	N	A	A	A	A	A
Theaters- Movie or Performance	N	N	N	P	P	N	N	A	A	A	A	A
Bank and Lending Institution	N	N	N	P	P	N	N	A	A	A	A	A

	Residential I	Residential II (Shorefront)	Residential III (Rural)	Business & Commercial	Village/ Residential	Light Industrial	Agricultural	Farming- Prime Soils (O) ¹	Aquifer- Conservation (O) ²	Wetland- Conservation (O) ³	Historic (O) ⁴	Floodplain (O) ⁵
BUSINESS & COMMERCIAL (cont.)												
Veterinary Clinic/ Hospital	N	N	C	P	C	C	C	A	A	A	A	A
Automotive Fueling Station w/ Convenience Store & w/o Service	N	N	N	P	P	N	N	A	A	A	A	A
Kennels & Animal Daycare/ Service	N	N	C	P	N	P	C	A	A	A	A	A
Motor Vehicle Dealership	N	N	N	P	C	N	N	A	A	A	A	A
INSTITUTIONAL/ PUBLIC ADMIN/ HEALTH CARE												
Nursery School/ Preschool	C	C	C	C	C	N	C	A	A	N	A	A
Day Care Facility, Child	C	C	C	C	C	N	C	A	A	N	A	A
Senior Citizen Center	C	N	C	P	P	N	C	A	A	A	A	A
Non-Profit Lodge & Fraternal Organization	C	C	C	P	P	N	C	A	A	A	A	A
Hospital	N	N	N	P	C	N	N	A	A	A	A	A
Funeral Home or Parlor	N	N	N	P	P	N	N	A	A	A	A	A
Church/ Place of Worship	C	N	C	P	P	N	P	A	A	N	A	A
Cemetery	P	P	P	P	P	P	P	A	A	N	A	A
Public Utility	C	C	C	C	C	C	C	A	A	N	A	A
Museum	C	C	C	P	P	N	C	A	A	N	A	A
Essential Town Services	P	P	P	P	P	P	P	A	A	N	A	A
Library	C	N	C	P	P	N	N	A	A	N	A	A
Assisted Living/ Life Care Facility	P	C	P	P	P	N	P	A	A	N	A	A
Parking Facility	N	N	N	C	P	N	N	A	A	N	A	A
Nursing Home	P	C	P	P	P	N	P	A	A	N	A	A
Medical & Dental Office	N	N	C	P	P	N	C	A	A	N	A	A
School, Continuance, Alternative, Adult College & Univ., Technical, Trade & other Specialty Schools	N	N	C	C	C	C	C	A	A	N	A	A

	Residential I	Residential II (Shorefront)	Residential III (Rural)	Business & Commercial	Village/ Residential	Light Industrial	Agricultural	Farming- Prime Soils (O) ¹	Aquifer- Conservation (O) ²	Wetland- Conservation (O) ³	Historic (O) ⁴	Floodplain (O) ⁵
INDUSTRIAL USES												
Boat Storage Facility	N	N	C ⁹	P	N	P	C ⁹	A	A	N	A	A
Factory Outlet Store	N	N	N	P	P	N	N	A	A	N	A	A
Fuel Storage	N	N	N	C	C	P	C	A	N	N	A	A
Light Industrial	N	N	N	N	N	P	N	A	A	N	A	A
Lumber Mill	N	N	C ⁹	C	N	P	C ⁹	A	A	N	A	A
Lumber Yard Retail Sales	N	N	C ⁹	P	N	C	C	A	A	N	A	A
Freight & Truck Terminal	N	N	N	C	N	P	N	A	A	N	A	A
Warehouse	N	N	N	C	C	P	N	A	A	N	A	A
On-Site Disposal of Septage Generated Off-Site; Septage Lagoons	N	N	N	N	N	N	C	A	N	N	A	N
Self-Storage Warehousing	N	N	N	C	N	C	N	A	A	N	A	A
Junk Yards, Recycling Center	N	N	N	N	N	C	N	A	A	N	A	A
Body Shop/ Paint Shop	N	N	N	C	N	P	N	A	A	N	A	A
Contractor Offices/ Shops- not home based	N	N	N	P	N	P	N	A	A	N	A	A
Industrial Park	N	N	N	N	N	P	N	A	A	N	A	A
AGRICULTURAL/ FORESTRY USES												
Agriculture- Commercial	C ⁹	N	C	N	N	N	P	A	A	N	A	A
Agriculture- Personal	C	P ¹⁷	P	N	P	N	P	A	A	N	A	A
Earth Excavation	N	N	N	N	N	N	C	A	A	N	A	A
Forestry using Best Management Practices	P	P	P	P	P	P	P	A	A	N	A	A
Septage/ Sludge Application	N	N	C	N	N	N	C	A	A	N	A	N
Greenhouse/ Nursery- Commercial	C ¹⁶	N	P ¹⁸	P	P	P	P ¹⁸	A	A	N	A	A
Retail Sales of Produce Grown On-Site	P	P	P	P	P	P	P	A	A	N	A	A
Farmers Market	C	C	C	P	P	N	P	A	A	N	A	A

	Residential I	Residential II (Shorefront)	Residential III (Rural)	Business & Commercial	Village/ Residential	Light Industrial	Agricultural	Farming- Prime Soils (O) ¹	Aquifer- Conservation (O) ²	Wetland- Conservation (O) ³	Historic (O) ⁴	Floodplain (O) ⁵
ARTS/ RECREATION/ ENTERTAINMENT												
Convention/ Conference Facility	N	N	N	P	N	N	N	A	A	N	A	A
Outdoor Recreation- such as golfing, ball field, ice rink	C	C	C	N	C	N	C	A	A	N	A	A
Indoor Recreation- such as bowling alleys, pool halls, arcades	C	N	C	P	P	N	C	A	A	N	A	A
Community Center, Meeting Hall, Reception Hall & other places for public assembly	C	N	C	P	P	N	C	A	A	N	A	A
Recreational Campground/ Camping Park	N	C	C	N	N	N	C	A	A	N	A	A
Historic Preservation Site	P	P	P	P	P	P	P	A	A	N	A	A

Legend (Table 1):

- P = Permitted use, subject to Site Plan Review, if required
- N = Not a permitted use
- O = Overlay District
- A = Allowed if permitted in base zoning district
- C = Conditional, requires Conditional Use Permit
- Z = Not permitted if located in overlay zone that prohibits such use, otherwise might be allowed if necessary part of the primary use of the lot.

Footnotes (Table 1):

1. Refer to Article 7, Farming- Prime Soils Overlay District for guidelines.
2. Refer to Article 8, Aquifer Conservation Overlay District for requirements.
3. Refer to Article 9, Wetland Conservation Overlay Zoning District for permitted uses.
4. Refer to Article 10, Historic Overlay Zoning District for Certificate of Approval Guidelines to construct, alter, move, or demo within the overlay district.
5. Refer to Article 11, Floodplain Development Overlay District for additional permitting and/or structural requirements.
6. To be installed in accordance with RSA Chapter 205-D “Manufactured Housing Installation Standards” and subject to “Building Area Requirements” in Table 3.
7. Allowed provided all dimensional requirements contained in Tables 2 and 3 are met.
8. Refer to Article 16, Private Campsites for requirements.
9. All business type uses must be approved as a Home Enterprise.
10. The temporary structure shall comply with lot line setbacks in Table 2 “Minimum Setbacks.”
11. Including any similar use that may adversely affect water quality, unless adequate safeguards are employed and all permits to ensure hazardous materials are not into on-site water or soil.
12. Refer to Article 23F, Home Based Contractor Yards for additional restrictions.
13. Refer to Article 23B, Home Enterprises for additional restrictions.
14. Not allowed as a stand-alone business. Must be approved as a “Home Industry” or “Mixed Use”.
15. Except as may be temporary allowed in the normal course of business, but only with adequate safeguards and required permits.
16. Conditional Use Permit required if parcel is greater than 5 acres, otherwise prohibited.
17. No hoofed animals or fowl allowed.
18. Conditional Use Permit required only if parcel is less than 5 acres, otherwise permitted.

Table 2 – Minimum Setbacks

	Residential I	Residential II - Shorefront	Residential III - Rural	Business & Commercial	Village / Residential	Light Industrial ¹	Agricultural
STANDARD LOTS							
Street ² (ft.) ³	20	20	50 ⁴	20	20	50	50 ⁴
Side (ft.)	20 ⁴	20 ⁴	20 ⁴	20 ⁵	10	20	20 ⁴
Rear (ft.)	10	10	15	10	10	10	15 ⁶
Shoreline (ft.)	N/A	30 ⁷	N/A	N/A	N/A	N/A	N/A
Wetland ⁸ (ft.)	30	30	30	30	30	30	30
Default ⁹ (ft.)	20	20	20	20	20	20	20
FLAG LOTS							
Street ² (ft.) ³	20	N/A	35	N/A	N/A	N/A	35
Side (ft.)	20 ⁴	N/A	20	N/A	N/A	N/A	20
Rear (ft.)	10	N/A	15	N/A	N/A	N/A	15
Wetland ⁸ (ft.)	30	N/A	30	N/A	N/A	N/A	30
Default ⁹ (ft.)	20	N/A	20	N/A	N/A	N/A	20

	Residential I	Residential II - Shorefront	Residential III - Rural	Business & Commercial	Village / Residential	Light Industrial ¹⁰	Agricultural
Lots Serviced by Municipal or Community Water and/or Municipal or Community Sewer							
Street ² (ft.) ³	20 ¹¹	20 ¹⁰	35 ¹⁰	20 ¹²	20 ¹¹	50 ¹¹	35 ¹⁰
Side (ft.) ⁴	20 ¹⁰	20 ¹⁰	20 ¹⁰	20 ¹¹	10 ¹¹	20 ¹¹	20 ¹⁰
Rear (ft.)	10 ¹⁰	10 ¹⁰	15 ¹⁰	10 ¹¹	10 ¹¹	10 ¹¹	15 ¹⁰
Shoreline (ft.)	30	30	30	30	30	30	30
Wetland ⁸ (ft.)	30	30	30	30	30	30	30
Default ⁹ (ft.)	20	20	20	20	20	20	20

Legend (Table 2):

ft. = feet

N/A = not applicable

Footnotes (Table 2):

1. All light industrial uses located on Route 16 shall be shielded from view by use of a natural woodland buffer or other screening method as approved by the Planning Board.
2. Measured from the edge of the right-of-way corridor or from the edge of the traveled way, whichever measurement provides the greatest distance from the centerline of the traveled way.
3. May be increased by up to 50% for newly created lots located on a designated "Scenic Byway" under RSA 238:19 *et seq.*
4. Reduce by 50% for pre-existing non-conforming ("grandfathered") lots, but in no event, shall the setback be less than 10 feet.
5. Reduce by 50% if property adjacent to the affected boundary is used for non-residential purposes
6. Reduce to 10 ft. for pre-existing ("grandfathered") non-conforming lots.
7. Except for boathouses and docks, which are subject to the jurisdiction of the State. (Note: The State of NH Comprehensive Shoreland Act requires a shoreline setback of 50'. This setback requirement supersedes the Town of Wakefield shoreline setback.)
8. Not applicable to setbacks from shorelines. The designated wetland setback may be reduced by the Planning Board, but in no event to less than the applicable front, side or rear setback, upon a showing that additional runoff into the wetland area will not occur.
9. This is the minimum dimension when other categories are not applicable.
10. All light industrial uses located on Route 16 shall be shielded from view by use of a natural woodland buffer or other screening method as approved by the Planning Board.
11. May be reduced by Conditional Use Permit or if property is developed using Open Space Conservation/Cluster Development (See Article 12).
12. May be reduced by Conditional Use Permit.

Table 3 – Density and Minimum Dimensional Requirements

	Residential I	Residential II - Shorefront	Residential III - Rural	Business & Commercial	Village / Residential	Light Industrial	Agricultural
1. STANDARD LOTS							
Street Frontage (ft.)	150	150	150	100	50	200	200
Shoreline Frontage (ft.)	N/A	150	N/A	N/A	150	N/A	N/A
Maximum Density ¹ /Minimum Lot Size	1 ac.	1 ac.	3 ac.	.5 ac.	.5 ac.	1 ac.	5 ac. ²
- Additional area for each dwelling unit in excess of 1 unit, commercial or residential (sq. ft.) ¹	1 ac.	1 ac.	3 ac.	.5 ac.	10,000	N/A	5 ac. ²
- Additional area for each non-residential unit in excess of 1 unit, commercial or residential (sq. ft.) ¹	1 ac.	1 ac.	3 ac.	.5 ac.	4,000	1 ac.	5 ac. ²
FLAG LOTS							
Street Frontage (ft.)	50	N/A	50	N/A	N/A	50	50
Shoreline Frontage (ft.)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Maximum Density ¹ /Minimum Lot Size	60,000 sq. ft.	N/A	3 ac.	N/A	N/A	1 ac.	5 ac. ²
- Additional minimum area required for each non-residential unit in excess of 1 unit, commercial or residential (sq. ft.) ¹	1 ac.	N/A	3 ac.	.5 ac.	N/A	1 ac.	5 ac. ²
- Additional minimum area required for each residential unit in excess of 1 unit, commercial or residential (sq. ft.) ¹	1 ac.	N/A	3 ac.	.5 ac.	N/A	N/A	5 ac. ²

Legend (Table 3):

ac. = acre(s)

ft. = feet

sq.ft. = square feet

N/A = not applicable

	Residential I	Residential II - Shorefront	Residential III - Rural	Business & Commercial	Village / Residential	Light Industrial	Agricultural
LOTS SERVICED BY MUNICIPAL OR COMMUNITY WATER AND/OR MUNICIPAL OR COMMUNITY SEWER							
Street Frontage (ft.)	150	150	150	100 ³	50	200	200
Shoreline Frontage (ft.)	N/A	150	N/A	N/A	150	N/A	N/A
Maximum Density ¹ /Minimum Lot Size (sq. ft.)	1 ac.	1 ac.	3 ac.	20,000 ⁴	20,000	1 ac.	5 ac. ²
- Additional minimum area required for each non-residential unit in excess of 1 unit, commercial or residential (sq. ft.) ¹	1 ac.	1 ac.	3 ac.	10,000	2,500	1 ac.	5 ac. ²
- Additional minimum area required for each residential unit in excess of 1 unit, commercial or residential (sq. ft.) ¹	1 ac.	1 ac.	3 ac.	20,000	5,000	N/A	5 ac. ²
BUILDING AREA REQUIREMENTS							
Minimum Living Area – Single Family Residence (sq. ft.) ⁵	800 ⁹	800 ⁹	800 ⁹	N/A	800 ⁹	N/A	800 ⁹
Minimum Living Area – Multi-Family Unit (sq. ft.) ⁵	600	600	600	N/A	600	N/A	600
Minimum Living Area – Open Space/Cluster Unit (sq.ft.) ⁵	800	800	800	N/A	N/A	N/A	800
Building Width (Maximum)(ft.)	N/A	N/A	N/A	N/A	70 ft ⁶	N/A	N/A
Building Height (Maximum) (ft.) ^{7&8}	35	35	35	35	35	35	35

Footnotes (Table 3):

1. The minimum area requirement shown in the table is also the maximum density allowed per residential (dwelling) or non-residential unit in all districts with the exception of the Village/Residential District where the minimum area required for additional units is 10,000 sq. ft. for residential and 4,000 sq. ft. for non-residential. For example, an Open Space subdivision in the Residential III zone can have a maximum of 1 dwelling unit per each 3 acres of buildable land. Additional area requirements not applicable for an “In-Law Apartment” otherwise meeting the requirements of this Ordinance.
2. Reduced to 3 acres if property is developed using Open Space Conservation/Cluster Development (See Article 12).
3. Can be reduced to not less than 50 feet by the Planning Board upon a showing of reasonable need (e.g. lack of sufficient lot width, etc.).
4. If serviced by municipal water system or municipal sewer system.
5. Not to include unfinished basements, garages, decks, porches or covered walkways
6. Provided structure is consistent with or complimentary to the rural character and setting of Wakefield.
7. May be exceeded by Special Exception.
8. Measured from the median height of the ground surrounding the building to the peak of the roof, exclusive of chimneys, antennas and church steeples.

ARTICLE 4 - OFFICIAL ZONING MAP

The Zoning Districts identified in this Ordinance are bounded as shown on the map entitled "Zoning Map of Wakefield New Hampshire," hereinafter referred to as the "Wakefield Official Zoning Map," or "Zoning Map"). The Wakefield Official Zoning Map is located in the Wakefield Town Hall and made a part of this Ordinance.

Regardless of the existence of other printed copies of the Wakefield Official Zoning Map, which from time to time may be made or published, the Wakefield Official Zoning Map located in the Wakefield Town Hall shall be the final authority as to the current zoning status of the land and water areas, buildings, and other structures in the Town.

The Wakefield Official Zoning Map for the Town is to be used to determine exact Zoning District boundaries, and shall be certified as the Official Zoning Map of the Town by the Town Clerk upon adoption of this Ordinance. The certified Wakefield Official Zoning Map, and any amendment that affects the Zoning Map, shall be filed with the Planning Board.

ARTICLE 5 - BOUNDARIES

A district boundary shown on the Zoning Map as approximately following the right-of-way of a road, a shoreline of a body of water, or property line, shall be construed as following such line. If the District classification of any land is in question, it shall be deemed to be in the most restricted adjoining district. The Zoning Board of Adjustment shall determine the location of a district boundary upon an appeal from an administrative decision of the Code Enforcement Officer.

ARTICLE 6 - BASE ZONING DISTRICTS

RESIDENTIAL I. This district primarily includes those areas that are already moderately to heavily utilized as residential areas, or consist of areas that are contiguous to such areas.

RESIDENTIAL II - SHOREFRONT. This district includes virtually all property located within 500 feet of lakes and ponds. It is primarily a residential district. A primary purpose of this district is the preservation of the quality of water in the lakes and ponds, and to preserve aesthetics and the environment.

RESIDENTIAL III - RURAL. This district includes land that shares characteristics that render it appropriate for primarily residential development, while retaining rural characteristics. The minimum lot size is 3 acres. Many Residential III areas are located contiguous to Residential II areas, and thus serve as a residential buffer between the rather densely populated Residential II districts, and other districts that require a lower density.

BUSINESS AND COMMERCIAL. This district consists of those areas, which based upon historical use as a center for commerce, upon accessibility to major transportation routes, and/or upon access to other infrastructure amenities, are uniquely suited as areas to promote and foster businesses and commercial ventures.

VILLAGE/RESIDENTIAL. This district is created to allow commercial and residential growth to occur while retaining the heritage and unique qualities of Wakefield. In order to do so, this Ordinance guides

development of Village centers to ensure: (1) a mix and variety of uses; (2) that development occurs in a manner which maintains the visual character and architectural scale of existing development in the district; (3) that each Village remains a pedestrian-oriented environment.

LIGHT INDUSTRIAL. This district is for light industrial uses that are not otherwise appropriate to be located in close proximity to residential uses. Whenever possible, no structures or activities shall be visible from any State-maintained highway, “Scenic Byway,” or scenic road.

AGRICULTURAL. These areas contemplate primarily residential and agricultural uses, and are expected to have the lowest density of buildings in the town, in favor of greater expanses of open space and conservation areas. The minimum lot size is 5 acres.

ARTICLE 7 – FARMING – PRIME SOILS OVERLAY DISTRICT

- A. PURPOSE.** The purpose of the Farming – Prime Soils Overlay District is to promote the continuation of agriculture, protect historically viable farmland and prime agricultural soils and preserve Wakefield’s rural character and working landscape.
- B. LOCATION.** The Farming-Prime Soils Overlay District is available in the entirety of Wakefield.
- C. VOLUNTARY COMPLIANCE.** The decision whether to comply with the requirements of this Article is voluntary on the part of the property owner, and is rescindable at any time.
- 1.** Prior to voluntarily designating a parcel or portion thereof to be subject to this overlay zone, the following requirements shall be met:
 - a.** The parcel or portion thereof must contain a minimum of 20 contiguous acres.
 - b.** Preparation and execution of a writing, the form and content of which is to be approved by the Planning Board in advance, and which may be recorded in the Carroll County Registry of Deeds at the applicant’s expense, indicating the parcel or portion thereof being made subject to the overlay.
 - c.** Preparation of a sketch or plat in sufficient detail to clearly identify the parcel or portion thereof being made subject to the overlay. The sketch need not be in recordable format, but shall be placed in the property’s Planning Board file, with a copy provided to the Town Assessor’s Office for inclusion in the Town’s Assessment file.
- D. CONFORMING AND NON-CONFORMING USES AND STRUCTURES.** During the period of time that a parcel or portion thereof is in voluntary compliance with this Article, the uses and structures placed upon the parcel must comply with the requirements for this overlay district as set forth in the tables in Article 3 in effect when the parcel was placed in this overlay district. No use or structure that is commenced or built during the voluntary applicability of this Article shall remain on the parcel or portion thereof unless it complies in all respects with the applicable underlying base and overlay zones in effect when the voluntary applicability of this Article zone is terminated.

E. SUPPLEMENTAL DEVELOPMENT STANDARDS. The establishment of a use or structure on the parcel or portion thereof subject to this overlay zone shall:

1. Minimize the disruption of the scenic quality of the site; and
2. Retain the maximum possible meadowland for agricultural use through means such as, but not limited to, clustering under the Open space subdivision provision, and or the donation of development rights; and
3. Utilize the least productive land and protects primary agricultural soils; and
4. Not conflict with existing agricultural uses in the area.

ARTICLE 8 – AQUIFER CONSERVATION OVERLAY DISTRICT

Pursuant to RSA 674:16,I and RSA 674:21 and in order to help maintain the quality of living in the Town of Wakefield as set forth in the Master Plan, the Town believes that an adequate water supply is indispensable to the health, welfare, and safety of its citizens. Such an adequate supply is also essential to the maintenance of the ecological balance of the natural environment of the Town, an environment that the Town wishes to protect. These water resources are subject to an ever-increasing demand for new and competing uses. Thus, the Town declares and determines that such water resources, whether occurring above or below ground, constitute a precious, finite, and invaluable public resource. These resources should be protected, conserved, and managed in the interest of present and future generations. The intent of this Ordinance is to provide for the protection of the water resources from contamination by polluting, hazardous, or toxic materials.

- A. BOUNDARIES.** The Aquifer Conservation District is identified as those areas designated by the U.S.G.S. or by the Planning Board as provided herein from time to time. This map is on display in the Zoning Office of the Town of Wakefield, and is deemed part of the Wakefield Official Zoning Map. The District shall include mapped primary and secondary recharge areas.
- B. PERMITTED USES.** Permitted uses shall be as outlined for the Base Zoning District of the parcel in question.
- C. SPECIAL CONDITIONS.** The following conditions shall apply to all uses in this District:
1. Sanitary wastewater discharge to septic and leaching systems shall conform to the regulations set forth in the New Hampshire Water Supply & Pollution Control Division Regulation;
 2. All liquid or solid waste other than normal septic effluent shall be temporarily stored on-site and disposed of in a manner approved by the Planning Board;
 3. Monitoring wells shall be established for all industrial and commercial uses utilizing or storing hazardous or toxic materials. The Planning Board shall determine the number, construction, and location of these wells. These wells shall be checked for compliance with the Interim Primary Drinking Water Regulations and Secondary Drinking Water Regulations as provided for in the Safe Drinking Water Act of 1977, or subsequent revisions to it. The checking of wells shall take place periodically as required by the

Planning Board, and the results reported to the Planning Board and/or such other boards and officials as the Planning Board deems appropriate;

4. Storage of petroleum and refined petroleum products shall be above ground in a manner approved by the Fire Department unless Planning Board permission is obtained for subsurface storage. It shall be the responsibility of every applicant for such permit to demonstrate to the satisfaction of the Planning Board that subsurface storage can be accomplished in a manner that will not adversely affect the aquifer. Subsurface storage of such materials is permitted only with permission of the Planning Board and with such conditions specified to prevent the pollution of the aquifer. Permits issued by the Board of Selectmen or its duly authorized agent shall be for a period of not more than fifteen (15) years, renewable upon application;
5. Use of pesticides, herbicides, and other potentially dangerous leachables shall be in compliance with RSA 430:28, *et seq* and the NH Code of Administrative Rules. No fertilizer, except low phosphate, slow release nitrogen fertilizer or limestone, may be used on lawns or areas with grass. Storage of these materials shall not be outdoors;
6. Site review shall be required by the Planning Board when an industrial or commercial use is altered within this District to a use that involves the use, storage, or disposal of hazardous or toxic materials;
7. No more than 50% of the buildable area of a lot shall be rendered impervious; and
8. Storm water drainage shall be handled according to the best management practices.
9. No permitted use shall result in the following:
 - a. Outdoor storage of road salt or other deicing chemicals or dumping of snow containing road salt or other deicing chemicals;
 - b. On-site disposal of solid waste;
 - c. On-site disposal of septage generated off-site or sewer and septage lagoons;
 - d. Automotive repair shops, and any other use which might potentially adversely affect water quality, unless adequate environmental safeguards are instituted and all required local, state and federal permits are obtained to ensure that no hazardous waste or toxic material is allowed to penetrate into the soil;
 - e. On-site storage of hazardous waste, or toxic materials, except temporarily as necessary in the ordinary course of business. A permit and adequate containment facilities is required for such temporary storage;
 - f. Removal of Sand and gravel within ten (10) feet of the seasonal high water table, unless an exception is granted by the Planning Board in accordance with the all Wakefield Earth Excavation Regulations in effect and RSA 155-E:11; and
 - g. Discharge of process waters or other wastes generated by industrial uses.

D. INCORRECTLY DESIGNATED AREAS. When the boundary of the Aquifer Conservation District is disputed, the Planning Board, at the complainant's expense and authorization, may engage a professional geologist or hydro-geologist to determine the precise location of the Aquifer Conservation District boundaries in the properties affected. A report of his/her findings shall be submitted to the Planning Board and shall include but not be limited to the following:

1. A revised soils map of the area in question prepared by a soils scientist qualified in hydrologic studies along with a written report of his/her on-site field inspection and test boring data.
2. A revised hydrogeological map prepared by a Professional Geologist ("P.G.") or a Professional Engineer ("P.E."), including a written report.

The Planning Board may adjust the boundary of this District based on the evidence provided as set forth above. It shall reserve the right to withhold action of any plat pending the results of an on-site inspection by the Board or its appointed agent and shall act to approve or disapprove the plan within sixty-five (65) days of submission or such further time as deemed necessary, but not to exceed an additional ninety (90) days as may be approved by the Board of Selectmen.

ARTICLE 9 – WETLAND CONSERVATION OVERLAY ZONING DISTRICT

A. PURPOSE AND INTENT. The purpose of this Ordinance is to protect the public health, safety and general welfare by controlling and guiding the use of land areas that have been found to be subjected to high water tables for extended periods of time. It is intended that this article shall:

1. Prevent the development, on naturally occurring wetlands, of structures and land uses which will contribute to pollution of surface and ground water by sewage or toxic substances;
2. Prevent the destruction of or significant changes to, natural wetlands that provide flood protection;
3. Protect unique and unusual natural areas;
4. Protect wildlife habitats and maintain ecological balances;
5. Protect potential water supplies and existing aquifers (water-bearing stratum) and aquifer recharge areas; and
6. Prevent expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities that might be required as a result of misuse or abuse of wetlands.

B. WETLANDS DEFINED. As defined by the New Hampshire Department of Environmental Services Wetland Bureau, which identifies wetlands per the following:

1. Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1 Environmental Laboratory, Department of the Army (January 1987) and

2. Field Indicators for Identifying Hydric Soils in New England (version 2, July 1998), New England Interstate Water Pollution Control Commission.

Accordingly, a wetland is defined as an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal conditions does support, a prevalence of Vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas.

C. DISTRICT BOUNDARIES.

1. **Wetland Conservation District.** The Wetland Conservation District is defined as those areas delineated as wetlands defined herein and buffers/setbacks as required under the zoning ordinance.
2. **Additional Studies Required:** The Planning Board may engage an independent certified wetland scientist to review the wetland delineation on a property if in its opinion there is a question as to the accuracy of said delineation. The cost of said review, if required, shall be paid for by the applicant/landowner.

D. PERMITTED USES. Permitted uses are those which will not require the erection or construction of any structures or buildings, will not alter the natural surface configuration by the addition of fill or by dredging, and uses that otherwise are not permitted by the Zoning Ordinance. Permitted uses may include the following:

1. Forestry-tree farming, using best management practices in order to protect streams from damage and to prevent sedimentation;
2. Cultivation and harvesting of crops according to recognized soil conservation practices, including the protection of wetlands from pollution caused by fertilizers, pesticides and herbicides used in such cultivation;
3. Wildlife refuges;
4. Parks and recreation uses consistent with the purpose and intent of this article;
5. Conservation areas and nature trails;
6. Open spaces as permitted or required by the subdivision regulations or the Zoning Ordinance.

E. CONDITIONAL USE PERMIT. In accordance with NH RSA 674:21 (innovative Land Use Controls) the Planning Board may grant a Conditional Use Permit to allow for a reasonable reduction of the required setbacks or to permit a fill, dredge, or construction operation within a wetland after consideration of the following as applicable.

1. Size and environmental value of the wetland in question.
2. Size and scope of the wetland and/or buffer impact.
3. Necessity of the proposed buffer reduction and/or proposed wetland impact as it relates to

the proposed project within the limitations of other applicable zoning and regulatory requirements.

4. Perpetual protection of other wetlands within the Town through legally binding restrictions. Variables to be considered include but are not limited to; size, environmental value, hydrologic value, significant natural value, scenic concerns, hydrologic association with another water body (including ponds and rivers), provision of public access.
5. Mitigation methods and efforts accepted by the State of New Hampshire Wetlands Bureau and the Conservation Commission.
6. Comment of the Conservation Commission.

F. SPECIAL PROVISIONS. No part of a wetland may be considered as part of the minimum size requirement of any lot.

ARTICLE 10 – HISTORIC OVERLAY ZONING DISTRICT.

A. PURPOSE. New Hampshire State Law declares that preservation of cultural resources, and particularly of structures and places of historic, architectural and community value is a public purpose.

Pursuant to the above, it is the specific purpose of this Ordinance to preserve and safeguard the heritage of the Town of Wakefield by making it possible for the citizens of the town to create one Historic District that will:

1. Preserve for generations to come the picturesque and unique settings and collections of historically, architecturally and culturally significant buildings and structures, which are found within the Town of Wakefield;
2. Encourage the maintenance and restoration of such buildings and structures and their settings, and insure that new buildings and structures and alterations to those existing within the District, are in visual harmony with their neighbors in order to preserve that which reflects the cultural, social, economic, political and architectural history of the Town of Wakefield; and
3. Foster civic pride and beauty, strengthen the local economy, conserve and maintain property values in the District and provide an opportunity to enhance the education, pleasure and welfare of the citizens of the visitors to the Town of Wakefield.

B. BUILDING, STRUCTURES AND USE PERMITS. Buildings, structures and uses within the Historic District shall be those permitted in the Planning and Zoning Ordinance provisions for any site in question except that within any historic district, no building or structure shall be erected, moved or demolished unless, upon written application, a Certificate of Approval shall have been issued therefore by the Wakefield Heritage Commission.

C. CERTIFICATE OF APPROVAL.

1. In the Wakefield Historic District, no building permit shall be issued for any purpose or for

any construction or demolition until the Wakefield Heritage Commission has issued a corresponding Certificate of Approval;

2. A Certificate of Approval is required prior to the construction, alteration, moving or demolition of any structure or fence within the Historic District;
3. The Application for Certificate of Approval will be obtained from the Board of Selectmen or its duly authorized agent when obtaining a building permit. In cases where no building permit is required, the Application for Certification of Approval will be obtained from the Heritage Commission Secretary; and
4. A Certificates of Approval shall be applied for in writing to the Wakefield Heritage Commission, stating the location, nature and, where pertinent, the materials, color and texture of the matter or item for which such certificate is sought. Any site plans, building plans, elevations, samples, photographs, sketches, or other information reasonably required by the Commission shall be made available by the applicant.
5. The following activities do not require a Certificate for Approval (however may they be subject to other permits from the Building Department).
 - a. Building of fence maintenance when a feature is being repaired or replaced, without change to the design, material, or color.
 - b. Cleaning of a building exterior.
 - c. Changes to interior elements of a structure that do not impact an exterior feature.
 - d. General landscaping maintenance that does not significantly impact on the overall appearance of the site.

D. REVIEW AND DECISION BY THE WAKEFIELD HERITAGE COMMISSION. In its review of applications and in reaching its decision for the granting or denial of a Certificate of Approval pertaining to properties located within the boundaries of the Historic District, the Wakefield Heritage Commission shall consider, but not be limited to, the following guidelines:

1. The Commission may hold a public hearing on the Certificate of Approval in the following manner: Within ten days after the filing of an application for a Certificate of Approval or application for demolition, the Commission shall determine the properties deemed by it to be materially affected by such application and shall forthwith cause its secretary to give by mail (postage prepaid) to the applicant and to the owners of all such properties as they appear on the most recent real estate tax list, not less than ten days notice of a public hearing before the Commission on such application. In any case, notice shall be given to the owner of each property abutting the property to which the application pertains;
2. The Commission shall consider the appropriateness of proposed features, buildings, structures, and appurtenant fixtures, location on the lot, and the removal or demolition of any building or structure or appurtenant fixture in the district, wherever such features, buildings, structures, and appurtenant fixtures, are subject to public view;
3. The Commission shall keep in mind the specific purpose of this district as stated in this

Ordinance, and shall consider, among other things, the historic and architectural style, the general design, arrangement, textures, materials, and color of the building or structure or appurtenant fixtures in question, the relation of such features to similar features of buildings in the immediate surroundings, and the position of such building or structure in relation to the street or public way and to other buildings and structures;

4. The commission shall request reports and recommendations regarding the feasibility of the applicant's proposal from the Planning Board, Fire Chief, Building Inspector, Health Officer and such other administrative officials as may possess information pertinent to the application. The Commission also shall seek advice from such professional, educational, cultural or other groups or persons to include technical assistance and consultants, as may be deemed necessary for the determination of a reasonable decision, at the expense of the Commission; and
5. The Commission shall not make any recommendations or requirements except for purposes of historic preservation and of preventing developments, construction, or changes incongruous with the historic district, its buildings, sites and surroundings.

E. GRANTING OF CERTIFICATES OF APPROVAL.

1. Within a period of forty-five (45) consecutive days after the filing of such application or within such further time as the applicant may in writing allow, the Commission shall determine whether the action or usage proposed will be appropriate in its opinion in the Historic District in accordance with the purpose of this Article and shall file a Certificate of Approval or notice of disapproval with the Wakefield Board of Selectmen or other duly delegated authority. Failure to file said certificate or notice by the Commission within the specified period of time shall be deemed to constitute approval. In such instances, the Applicant may apply to the Town Clerk for official notification that his application for Certificate of Approval was approved by default;
2. Notwithstanding that the action or usage proposed may be deemed inappropriate, the Commission may find that failure to issue a Certificate of Approval will involve a peculiar and unusual hardship to the applicant. In the event of such findings, the Commission shall issue a limited Certificate of Approval in which the Commission may impose such conditions as are necessary in its opinion to avoid substantial derogation from the objectives of historic preservation in the District;
3. If the Commission determines that a Certificate of Approval should not be issued, the reasons for such determination shall be entered in its records, and may include recommendations respecting the proposed construction, reconstruction, alteration, moving, or demolition; and
4. Whatever its findings, the Commission shall forthwith notify the applicant and the Board of Selectmen or its duly authorized agent of its determination and shall furnish the applicant in writing a copy of the reasons therefore and of its recommendations, if any, as appearing in the records of said Commission.

F. HISTORIC DISTRICT APPEALS. Any owner or tenant of property wholly or partly within the Historic District, and by any other person, agency, or group aggrieved by a ruling of the Historic

District Commission may appeal to the Wakefield Zoning Board of Adjustment. The Zoning Board of Adjustment shall hear and act upon such appeals within the periods of time prescribed by New Hampshire Statutes.

- G. **INTERPRETATION.** Nothing in this Ordinance shall be construed to prevent ordinary maintenance or repair of any structure or place within the Historic District nor to prevent construction, alteration, repair, moving or demolition of any structure under a permit issued by the Board of Selectmen or its duly authorized agent or other duly delegated authority prior to the establishment of any such District.

ARTICLE 11 – FLOODPLAIN DEVELOPMENT OVERLAY DISTRICT.

This district, adopted pursuant to the authority of RSA 674:16, is the Town of Wakefield Floodplain Development District. The regulations in this district shall overlay and supplement the regulations in the Town of Wakefield Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of this Ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

The following regulations in this Article shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its “Flood Insurance Rate Map, Town of Wakefield, New Hampshire, Carroll County (revised 2006) which are declared to be a part of this Ordinance and are hereby incorporated by reference.

- A. **DEFINITION OF TERMS.** The following definitions shall apply only to this Floodplain Development District, and shall not be affected by or affect the provisions of any other ordinance of the Town of Wakefield.
1. **Area of Special Flood Hazard.** The land in the floodplain within the Town of Wakefield subject to a one percent or greater possibility of flooding in any given year. The area is designated on the FIRM as Zones A and AE.
 2. **Base Flood.** The flood having a one percent possibility of being equaled or exceeded in any given year.
 3. **Basement.** Any area of a building having its floor subgrade on all sides.
 4. **Building.** See Structure.
 5. **Development.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation, or storage of equipment or materials.
 6. **FEMA.** The Federal Emergency Management Agency.
 7. **Flood or Flooding.** A general and temporary condition of partial or complete inundation or normally dry land areas from:
 - a. The overflow of inland or tidal waters;

- b. The unusual and rapid accumulation or run-off of surface waters from any source.
- 8. Flood Elevation Study.** An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood-related erosion hazards.
- 9. Flood Insurance Rate Map (FIRM).** An official map incorporated with this Ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Wakefield.
- 10. Flood Insurance Study.** See Flood Elevation Study.
- 11. Floodplain or Flood-Prone Area.** Any land area susceptible to being inundated by water from any source. (See definition of Flooding).
- 12. Flood Proofing.** Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.
- 13. Floodway.** See Regulatory Floodway.
- 14. Functionally Dependent Use.** A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.
- 15. Highest Adjacent Grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- 16. Historic Structure.** Any structure that is:
- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - 1. By an approved state program as determined by the Secretary of the Interior, or
 - 2. Directly by the Secretary of the Interior in states without approved programs.

17. **Lowest Floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.
18. **Manufactured Home.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 days. This includes manufactured homes located in manufactured home parks or subdivisions.
19. **Manufactured Home Park Subdivision.** A parcel (for contiguous parcels) of land divided into two or more manufactured lots for rent or sale.
20. **Mean Sea Level.** The National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a communities Flood Insurance Rate Map are referenced.
21. **New Construction.** For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
22. **100-Year Flood.** See Base Flood.
23. **Recreational Vehicle.** A vehicle that is:
 - a. Built on a single chassis;
 - b. 400 square feet or less when measured at the largest horizontal projection;
 - c. Designed to be self-propelled or permanently towable by a light duty truck; and
 - d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
24. **Regulatory Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
25. **Special Flood Hazard Area.** (See "Area of Special Flood Hazard").
26. **Structure.** For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured

home.

27. **Start of Construction.** Includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include the excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.
28. **Substantial Damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
29. **Substantial Improvement.** Any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds 50 percent of the market value of the structure. The market value of the structure should equal:
 - a. The appraised value prior to the start of the initial repair or improvement, or
 - b. In the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures, which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

30. **Violation.** The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under Section E, Section H(2)(b), or Section G(4) of this article is presumed to be in violation until such time as that documentation is provided.
 31. **Water Surface Elevation.** The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988(or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains.
- B. PERMIT.** All proposed development in any special flood hazard areas shall require a permit.

C. REVIEW OF BUILDING PERMIT. The Board of Selectmen or its duly authorized agent shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

1. Be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. Be constructed with materials resistant to flood damage;
3. Be constructed by methods and practices that minimize flood damages;
4. Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. WATER AND SEWER SYSTEMS. Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Board of Selectmen or its duly authorized agent with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

E. NEW OR IMPROVED STRUCTURES. For all new or substantially improved structures located in Zones A, AE, the applicant shall furnish the following information to the Board of Selectmen or its duly authorized agent:

1. The as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement;
2. If the structure has been flood proofed, the as-built elevation (in relation to NGVD) to which the structure was flood proofed;
3. Any certification of flood proofing.

The Board of Selectmen or its duly authorized agent shall maintain for public inspection, and shall furnish such information upon request.

F. OTHER PERMITS. The Board of Selectmen or its duly authorized agent shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

G. RIVERINE SITUATION.

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Department of Environmental Services and submit copies of such notification to the Board of Selectmen

or its duly authorized agent, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Board of Selectmen or its duly authorized agent, including notice of all scheduled hearings before the Wetlands Board;

2. The applicant shall submit to the Board of Selectmen or its duly authorized agent, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
3. The Board of Selectmen or its duly authorized agent shall obtain, review, and reasonably utilize any floodway data available from federal, State, or other sources as criteria for requiring that all development located Zone A meet the following floodway requirement:

No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.

4. Along watercourses that have not had a Regulatory Floodway designated or determined by a federal, State or other source; no new construction, substantial improvements, or other development (including fill) shall be permitted within zones and AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

H. SPECIAL FLOOD HAZARD AREAS.

1. In special flood hazard areas, the Board of Selectmen or its duly authorized agent shall determine the 100-year flood elevation in the following order of precedence according to the data available:
 - a. In zone AE, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM or FHBM;
 - b. In unnumbered A zones the Board of Selectmen or its duly authorized agent shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, State or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals);
2. The Board of Selectmen or its duly authorized agent's 100-year flood elevation determination will be used as criteria for requiring in Zones A, and AE that:
 - a. All new construction or substantial improvement of residential structures has the lowest floor (including basement) elevated to or above the 100-year flood elevation;
 - b. That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities, shall:

1. Be flood proofed so that below the 100-year flood elevation the structure is

watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards or practice for meeting the provisions of this Article.

c. Recreational vehicles placed on sites within Zones A and AE shall either:

1. be on site for fewer than 180 consecutive days;
2. be fully licensed and ready for highway use, or
3. Meet all standards of Section B of this article and the elevation and anchoring requirements for "manufactured homes" in Section H (2)(d) of this article.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

d. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces;

e. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:

1. The enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
2. The area is not a basement;
3. Shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

I. VARIANCES AND APPEALS.

1. Any order, requirement, decision or determination of the Board of Selectmen or its duly authorized agent made under this Ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:
 - a. that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;
 - b. that if the requested variance is for activity within a designated regulatory floodway, no increases in flood levels during the base flood discharge will result;
 - c. that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. The Zoning Board of Adjustment shall notify the applicant in writing that:
 - a. the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and
 - b. such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with a record of all variance actions.

4. The community shall:
 - a. maintain a record of all variance actions, including their justification for their issuance; and
 - b. report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

ARTICLE 12 – OPEN SPACE CONSERVATION/CLUSTER DEVELOPMENT

- A. PURPOSE.** The purpose of this section is to allow, by Planning Board approval, Open Space Conservation/Cluster Development. The purpose of such Development is to conserve agricultural and forestlands, habitat, water quality, rural character and scenic areas that might otherwise be lost through conventional development, by encouraging environmentally sound development of land. To accomplish this purpose, greater flexibility and creativity in design is encouraged. Specific objectives are as follows:
1. Implement the Master Plan philosophy, vision, policies and implementation strategies.
 2. Discourage development sprawl and consumption of rural agricultural, forest, habitat and scenic land.

3. Conserve areas with productive soils for continued agricultural and forestry use by preserving blocks of land large enough to allow for economic and ecologically sensitive operations.
4. Encourage the preservation and enhancement of habitat for plant and animal communities, including rare species.
5. Conserve land that protects water quality and quantity, including watersheds and buffers along streams and rivers, wetlands and floodplains, ponds and lakes and land overlying aquifers.
6. Protect scenic views and special elements of rural character.
7. Conserve historic settings, cultural features, archeological sites and structures that serve as significant visible reminders of Wakefield's history.
8. Create compact neighborhoods accessible to open space amenities by providing for outdoor recreational needs of the subdivision residents and/or the community at large, by including trails, scenic and tranquil beauty, community gardens and playgrounds and other recreational uses such as snowmobiling machines.
9. Create continuous open space or "greenways" by linking the common open spaces in adjoining subdivisions wherever possible.
10. Minimize the impact of residential development on the Town, neighboring properties, and the natural environment.
11. Locate the buildings and structures on those portions of each site that are most appropriate for development considering the visual impact and the environmental and conservation value of the site.
12. Minimize water runoff and non-point source pollution by reducing the land area covered by impervious surfaces and using Best Management Practices.

In addition to the above listed objectives/benefits to the Town and the environment, developers should achieve cost saving with Open Space Conservation/Cluster Development because of the reduced requirements for constructing roads and other infrastructure.

B. APPLICABILITY.

1. Open Space Conservation/Cluster Development is allowed by Planning Board approval. Open Space Conservation/Cluster Development is encouraged for all major subdivisions and minor subdivisions if a road is required per the Subdivision Regulations. Cluster development will provide a more efficient use of land resulting in the preservation of natural landforms, wetlands, wildlife and waterfowl habitats, significant vegetation and agricultural lands and other natural resources.
2. Notwithstanding other provisions of this Zoning Ordinance, authority is hereby granted to the Planning Board, as allowed under RSA 674:21II, to issue a conditional use permit to

modify the Dimensional Requirements of this Section as specified herein to permit the clustering of residential dwelling units and improve the use and management of the open space. Such modifications shall be consistent with the purposes and standards of this Section so:

- a. The use will not be detrimental to the character or enjoyment of the neighborhood by reason of undue variation or undue violation of the character of the neighborhood.
- b. The use will not be injurious, noxious, or offensive and thus detrimental to the neighborhood.
- c. The use will not be contrary to the public health, safety, or welfare by reason of undue traffic congestion or unhealthful emissions or waste disposal, or similar adverse causes or conditions.
- d. The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to the proposed use and the location of the site with respect to the existing, or future street giving access to it shall be such that it will be in harmony with the neighborhood.
- e. The location, nature, and height of buildings, walls, and fences will not discourage the appropriate development and use of the adjacent land and buildings or impair the value thereof.

Said modifications shall not be construed as the granting of a variance to relieve hardship or require a Special Exception(s).

3. Applicants are especially encouraged to consider Open Space Conservation/Cluster Development whenever the property possesses one or more of the following special features:
 - a. Agricultural land used for producing crops, hay (forage), and/or forestry.
 - b. Rare, threatened or endangered species or known habitat area for those species.
 - c. Frontage on a pond, lake, perennial stream or river.
 - d. A portion of a watershed, wellhead and aquifer protection area.
 - e. A portion of a snowmobile trail network.
 - f. Steep slope land covering more than 20% of the total area of the property.
 - g. Historic, cultural, archeological sites and/or structures.
4. Phased Subdivision Applications – This Open Space Conservation/Cluster Development Section shall apply to the phased subdivision of a parcel over a period of time through separate successive applications. The requirements of this section shall apply to phased applications for each phase as though the development of the entire parcel were proposed in one application at one time. The total permitted density will be based upon the acreage and the characteristics of the original parcel that existed as of the date of the application.

5. Previously approved subdivisions having valid final approval may reapply to develop the property under this Section.

C. DEVELOPMENT STANDARDS.

1. **Permitted Districts and Land Uses.** Open Space Conservation/Cluster Development shall be permitted in the zoning districts as provided in Article 3, Table 1.
2. **Maximum Density.** The maximum density of dwelling units permitted shall be consistent with the municipality's adopted Master Plan and Zoning District(s) in which the Open Space Conservation / Cluster Development Subdivision is located, provided in no case shall the density exceed the soil carrying capacity to accommodate a sewage disposal system for each residential dwelling unit as required by the State and Subdivision Regulations.
3. **Parcel Lot Size.** There is no minimum Parcel Lot size, except as required by the State including accommodating a sewage disposal system based on soil conditions to protect groundwater quality. All costs of preparing soil data to determine the minimum lot size shall be borne by the applicant.
4. **Dwelling Unit Lot Size.** There is no minimum Dwelling Unit Lot size, except as required by the State. The minimum lot area for residential dwelling sites shall be flexible to allow for consideration of dwelling sites and types, landscape and topography, adjacent open space and access.
 - a. Dwelling Unit Lot size may vary based on the soil capability to accommodate sewage disposal systems as determined by the State and per the municipality's Subdivision Regulations.
 - b. Dwelling Unit Lot shapes may be irregular and shared driveways are permitted.
 - c. Dwelling Unit Lots shall be laid out and graded to eliminate flood or stagnant water pools. No water shall be permitted to run across a street on the surface, but shall be directed into catch basins and/or pipes underground in a pipe of not less than 12 inches in diameter.
5. **Residential Dwelling Units.** The total number of residential units allowable within an Open Space Conservation/Cluster Development shall not exceed the number of units that would otherwise be allowed in the existing zoning district using conventional subdivision design. The total number of units allowed shall be determined using the formula in the Article entitled "Residential and Commercial Units – Maximum.
6. **Sewage Disposal Systems.** Shared sewage disposal systems may be permitted provided the requirements of the State Department of Environmental Services are met, including appropriate provisions for legal obligations related to maintenance and replacement. Said systems may be located in the Open Space area provided the area shall not be sold to another property owner. All sewage disposal systems shall meet state and municipal setback requirements from poorly and very poorly drained soils.

7. **Parking.** The number of parking spaces required for a residential cluster development shall be two spaces per dwelling unit. At least one parking space shall be in an enclosed attached or detached garage.
8. **Dwelling Unit.** A dwelling unit shall contain a minimum square footage of finished livable floor area, not including unfinished basement, or any garage, deck, porch or covered walkway. The dwelling unit shall include a full basement with poured foundation and concrete floor; reflect the Town’s historic New England building character and have a minimum roof pitch of a 5 feet rise for every 12 feet in length (5:12) for the main roof area. “Dwelling Unit” for purposes of implementing Section 6.02 shall not include “manufactured housing” as defined pursuant to RSA 674:31, but may include “pre-site built housing” as defined pursuant to RSA 674:31-a.
9. **Landscaping.** Landscaping shall be installed per a landscape plan approved by the Planning Board. Said landscape plan shall show the type, location, and size of trees, shrubs, ground cover and other walls, fences, lighting and other features to stabilize the soil and enhance the development. Said Plan shall retain all possible trees.
10. **Street and Neighborhood Lighting.** Street and neighborhood lighting, if any, shall be low intensity, and fully screened to maintain a dark sky.
11. **Pedestrian and Bicycle Paths.** Designated pedestrian and bicycle paths shall be provided/ installed within the development where the lack thereof would give rise to safety concerns. In addition, designated pedestrian and bicycle paths within the development and to adjacent developments, neighborhoods and areas in the Town are encouraged, where appropriate, in order to foster a sense of community, for the convenience of the residents, and to maximize preservation of the natural resources (e.g. through use of a designated pathway versus use of multiple undesignated pathways). Where appropriate, pedestrians and bicyclists may share the same pathway. Pedestrian paths shall be separated from the paved roadway by a minimum of 5 feet.
12. **Utilities.** (Electrical, Telephone, Cable, Street Lighting and Other Overhead Wired Utilities). All utilities shall be installed underground, unless the Planning Board finds that such installation is unfeasible.
13. **Open Space Area Location and Design.**
 - a. A minimum of 50% of the buildable area of the Parcel Lot shall be permanently designated as Open Space area by covenant recorded at the Registry of Deeds and shown on the recorded subdivision plan. Exclusions from the buildable area are:
 1. Land considered unbuildable (steep slope land, wetland soils, rock outcrops and floodplains).
 2. Land covered by existing rights-of-way, utility easements, and structures such as dwellings, garages, storage sheds, patios, parking areas, driveways.
 3. Setbacks and lawns.
 - b. The designated Open Space shall not be used for additional building lots.

- c. In evaluating the acceptability of a proposed Open Space area, the Planning Board shall consider the extent to which the location and design of the area achieves the following objectives:
 - 1. Large enough areas of land are conserved to retain ecosystem function and habitat integrity.
 - 2. Large enough areas of land are conserved to sustain agriculture or forestry operations and buffer them from nearby development.
 - 3. Trail, or stream corridors and shoreland buffers are provided from building lots.
 - 4. Linkages or contiguity with existing or potential conservation areas on abutting properties are provided.
 - 5. Scenic views from public roads and prominent ridgelines are conserved.
 - 6. Purposes of this section (see Section 6.02 A. “Purpose”) are achieved.
 - 7. Area(s) of sufficient size that is suitable for active recreational use.
- d. Reasonable efforts must be made to locate Open Space adjacent to Open Space in an adjoining property or properties to the satisfaction of the Planning Board.
- e. At least 50% of designated Open Space shall be designated as Open Space Conservation Area and shall be maintained in an undisturbed Natural Condition.
- f. Limited access to Open Space may be allowed in the form of walking, hiking, snowmobiling or biking paths, the total area of which must be no more than 2% of the total Open Space area.
- g. Of the remaining designated Open Space a minimum of 10% should be designated “Open Space Homeowners’ Recreation Area” and may be used for passive or active recreation or for the location of stormwater management facilities.
- h. If used for stormwater management, all design, construction, maintenance and public safety requirements shall be met using the design criteria set forth in the municipality’s stormwater management Best Management Practices.
- i. If used for active recreation, impervious cover shall not exceed 5% of this Open Space Homeowners’ Recreation Area.
- j. Areas set aside for parks and playgrounds to be dedicated or reserved for the public use and/or common use of all property owners shall be of reasonable size and character for neighborhood playgrounds or other recreational uses.

D. DIMENSIONAL REQUIREMENTS

1. Setbacks:

a. Frontage distance, rear, front and side yard setbacks may be reduced to 50% of the requirements in the zoning district subject to the following:

1. The Parcel Lot front yard setback shall be 30 feet.

2. The required setbacks from Dwelling Unit Lot lines and from street rights-of-way within the Open Space Conservation/Cluster Development may be reduced, but no structure shall be located within 15 feet of any lot line or within 20 feet of any street right-of-way within the Open Space Conservation/Cluster Development.

3. Landscaped Buffer. A landscaped buffer strip shall be provided along the perimeter of the Parcel Lot except: where access streets into the development are located, where adjacent land is part of an open space area or conservation easement, or where clusters of residential dwelling units on adjacent lots or developments are adjacent to each other. The buffer strip shall have a minimum width equal to 1/5 of the required Parcel Lot frontage of the applicable zoning district, except along existing improved public streets, where the buffer strip shall have a minimum width equal to 1/2 of the required Parcel Lot frontage. The buffer strip shall be owned in fee and managed by an association of the owners of the lots within the development.

4. Parcel Lot Frontage. The minimum frontage on an access road to the Parcel Lot shall be 100 feet. This may be divided in two fifty-foot frontage widths to provide two points of ingress/egress.

5. Street Design. Streets shall:

a. Be curved to follow the natural topography with no straight segment extending farther than 300 feet.

b. Where appropriate, provide for a bicycle path.

E. OPEN SPACE AREA DESIGNATIONS, PROTECTION, AND OWNERSHIP

1. The boundaries of designated open space, recreation, stormwater management, and naturally vegetated Conservation Areas shall all be clearly delineated on the subdivision plans including plats and marked in the field with signage approved by the Planning Board to distinguish these areas from private property.

2. Open Space areas shall be permanently protected as Open Space by covenant recorded at the Registry of Deeds and shown on the recorded subdivision plan/plat.

3. The designated Open Space areas shall not be used for additional lots or development and shall be so noted on the recorded subdivision plan/plat.

4. Open Space areas shall be conveyed, prior to the sale of any lots, to one of the following, subject to the approval of the Planning Board:
 - a. The Town of Wakefield and accepted by the Board of Selectmen for parks, open space of other specified conservation uses.
 - b. The State of New Hampshire for permanent open space uses.
 - c. To a private non-profit organization, which is exempt from taxation under Section 501 (c)(3) or similar provision of the Internal Revenue Code, and whose principal purpose is the conservation of open space with the financial and organization means for perpetual stewardship, such as the Audubon Society of New Hampshire or the Society for the Protection of New Hampshire Forests.
 - d. A corporation or trust, such as a homeowners' association, owned or to be owned by the owners of the lots or dwelling units within the subdivision.
 - e. A private landowner such as a farmer or forest manager, golfing club, or cross-country ski operator that will manage the Open Space for uses consistent with the purposes of this Section.

 5. Conveyances to the town or state will be subject to permanent deed restrictions or permanent conservation easements. Conveyances to private entities will be subject to a permanent conservation easement granted to the Town of Wakefield or organization qualified under section 4(c) above and recorded at the Carroll County Registry of Deeds. Provisions of such deed restrictions or conservation easement shall include:
 - a. No further subdivision.
 - b. No residential, industrial or commercial development.
 - c. No roads except for agriculture, forestry, or passive outdoor recreation conducted according to Best Management Practices.

 6. General public access to the Open Space Conservation Area will not be required unless the land is conveyed in fee simple to the Town or State, or if a specific public trail corridor easement is proposed. Except in the aforesaid cases, the rights to post land and limit access will remain with the landowner.
- E. OPEN SPACE MANAGEMENT.** The developer may structure the management of the Open Space in one or more of the above methods. The Planning Board shall approve the arrangements for the ownership, control and maintenance of the Open Space as part of the subdivision plan approval. No changes in use or management of the Open Space via homeownership, bylaw amendments, or other means shall be made without the approval of the Planning Board. Said prior approval requirement shall be so noted in the recorded "Declaration of Covenants and Homeowner's Association Bylaws.
- F. HOMEOWNERS ASSOCIATION.** A homeowners' association shall be created to own and/or manage the Homeowners' Recreation Area Open Space lands and facilities and any other Open Space as approved by the Planning Board, unless an alternate ownership arrangement satisfactory

to the Planning Board is implemented. If a homeowners' association is created to own and/or manage the Homeowners' Recreation Area Open Space lands and facilities and any other Open Space as approved by the Planning Board, then the following provisions shall apply.

1. Covenants for mandatory membership in the homeowners' association, setting forth the owner's rights, interest and responsibilities, shall be required and approved by the Planning Board and shall be included in the deed for each lot and where applicable, the Declaration of Covenants.
2. A management plan for the Homeowners' Recreation Area land and facilities by the individual lot owners as a homeowners' association shall be required and approved by the Planning Board. The Planning Board shall approve any amendments thereto by the homeowners' association.

G. CONSERVATION EASEMENT.

1. If Open Space is owned by a separate entity, other than the homeowners' association, a conservation easement shall be established for the Open Space area as defined in subsection 3 below and shall be offered to the municipality.
2. A conservation easement, established as defined in subsection 3 below may be transferred to an established and designated land trust organization among whose purposes is to conserve open space and/or natural resources. This option is recommended for natural Open Space Conservation areas. Such transfer is allowable provided:
 - a. The organization is acceptable to the Planning Board and is a bona fide conservation organization with perpetual existence;
 - b. The conveyance contains appropriate provision for proper reversion or retransfer in the event that organization becomes unwilling or unable to continue carrying out its functions; and
 - c. The developer and the organization sign a maintenance agreement acceptable to the Planning Board.
3. The conservation easement shall:
 - a. Protect Open Space from future development, subdivision, and environmental damage by restricting the Open Space area from any future building or subdivision; and the removal of soil, trees and other natural features except as is consistent with conservation, recreation or agricultural uses or uses accessory to permitted uses.
 - b. Provide that residents have access to the Open Space at all times.
 - c. State whether Open Space is for the benefit of subdivision residents only or may be open to residents of the municipality.
 - d. Provide for ongoing management, enforcement and related funding.

H. OPEN SPACE MANAGEMENT RESPONSIBILITIES. An Open Space management entity shall assure the Open Space shall be protected in perpetuity from all forms of development except as shown on the approved Subdivision Plan and it will never be changed to another use. The management entity shall:

1. Describe all allowable and unallowable uses and activities within such Open Space as approved by the Planning Board,
2. Provide detailed standards and schedules for maintenance of the Open Space including vegetative management, and
3. Allow for county or municipal maintenance of Open Space in the event that maintenance specified under a homeowners' agreement is not complied with.

ARTICLE 13 – RECREATIONAL CAMPGROUNDS AND CAMPING PARKS

This provision is enacted to allow the placement of seasonal Recreational Campgrounds and/or Camping Parks within specific areas of the community, to provide standards for their use, and to promote growth of the Wakefield economic base.

A. LIMITATIONS. Recreational camping parks or residential tenting and recreational camping vehicles shall be located in accordance with this Article. A recreational camping park lawfully existing on the effective date of this Article may be maintained as a non-conforming use, provided that when such use or portions thereof shall have been discontinued or abandoned, the use of such land or portion thereof shall thereafter conform to the provisions of this Ordinance. Recreational campgrounds and camping parks shall not be expanded unless the expanded portion thereof is in conformance with the provisions of this Article.

B. GENERAL.

1. **Licensing.** All recreational campgrounds and camping parks shall be properly licensed by State and other applicable government agencies.
2. **Applications.** The Planning Board shall have authority to accept applications, impose application fees, review site plans, and approve or deny applications for any new or proposed recreational campground or camping park and/or the expansion thereof.
3. **Permitted Locations.** A recreational campground or camping park shall be located only in a zoning district where it is classified as a permitted use or is permitted by Conditional Use Permit.
4. **General Conditions.** A recreational campground or camping park shall adhere to the following requirements:
 - a. **Campsite Size.** The minimum campsite size for a recreational vehicle or tent shall be one thousand square feet (1,000 sq. ft.) and one thousand five hundred square feet (1,500 sq. ft.) for a cabin or cottage.
 - b. **Recreational Camping Cabin.** The maximum size of a recreational camping

cabin located in a Recreational Campground or Camping Park is 400 square feet or less, calculated by taking the measurements of the exterior of the cabin, including all siding, corner trim, molding and area enclosed by windows, but not the roof or porch overhang, or log overhang at corners. It shall be designed not for use as a permanent dwelling but as a temporary dwelling for recreational camping and vacation use.

b. Placement. No site within the recreational camping park shall be located within one hundred feet (100 ft.) of any boundary, except the waterfront boundary of the park. The minimum boundary setbacks may be reduced to as little as fifty feet (50 ft.) by Conditional Use Permit. All sites shall be set back from the waterfront boundary to comply with Article 3.

c. Internal Setbacks. All setbacks within the campground or park shall be as follows:

1. Campsite perimeters shall be setback 30 feet from surface water and very poorly drained wetlands (unless larger minimums are established elsewhere in these regulations).
2. Campsite perimeters shall be setback 50 feet from any permanent or incidental structure.
3. Campsite perimeters shall be setback 10 feet from internal roads.
4. Cabins or cottages shall be setback 20 feet from other cabins or cottages.
5. Minimum campsite width shall be 15 feet.
6. Minimum distance between Campsite perimeters shall be 12 feet.

All other setbacks shall comply with Article 3.

d. Marking. Each site shall be clearly marked by non-removable metal stakes, clearly identifiable permanent vegetation, or other approved methods.

e. Permanent Residence and/or Office: One residential home/office occupied by the recreational campground or camping park owner or manager and his or her immediate family will be permitted. This building will be required to meet the full lot requirements for a single-family residence based on the Zoning District in which the recreational campground or camping park is located, as well as to comply with local building and other codes and regulations.

f. Decks. No permit is required for a deck under 150 square feet used for a recreational vehicle as long as the following conditions are met:

1. The deck meets all State and Town setbacks; and
2. Meets all applicable State and Town buildings codes.

ARTICLE 14 – PERFORMANCE STANDARDS (GENERAL)

These standards are created to ensure that development is compatible with the rural character of the Town. These standards will serve to maintain the rural quality and peaceable enjoyment of residences, neighborhoods, village centers, and other occupied establishments or areas that are located in close proximity to the proposed development. An applicant shall submit appropriate data at the time of site plan review to substantiate those performance standards will not be violated when the use is put into operation.

- A. Noise.** No noise shall be produced that is objectionable to the public due to intermittence, beat, frequency, shrillness or volume;
- B. Vibration.** No vibration shall be produced which is transmitted through the ground and/or discernible beyond the boundary line;
- C. Odor.** No odor shall be produced that is detrimental to the health and welfare or which interferes with the comfort of the public;
- D. Glare or Heat.** No use shall produce heat, intense glare, bright light or reflection of that light that goes beyond the lot line onto neighboring properties;
- E. Pollution.** Emission into the air, water, or ground of dust, dirt, fly ash, fumes, vapors, liquids, solids, gases or hazardous waste or hazardous substances which could be injurious to human health, animals or vegetation, detrimental to the enjoyment of adjoining or nearby property or which could soil or stain persons or property at any point beyond the lot line is prohibited. Emissions into the atmosphere shall not exceed the limits set by, and shall meet the regulations and standards of all applicable local, state and federal regulatory agencies;
- F. Stormwater Runoff.** A property owner (and the property owner’s contractor(s), if any, who caused or contributed to the disturbance of the earth or vegetation), shall take reasonable measures to limit stormwater runoff to the pre-disturbance level, and prohibit erosion from leaving their site. Erosion control devices such as silt fences, hay bales, stump grindings, or other appropriate erosion control measures shall be installed and maintained until areas disturbed by earth excavation operations have been permanently stabilized.
- G. Traffic.** Truck traffic shall not be permitted that will unreasonably disturb surrounding neighborhoods.
- H. Aesthetic Compatibility.** All buildings and structures shall be aesthetically compatible in scale and appearance with the existing buildings and structures in the vicinity.

ARTICLE 15 – PERFORMANCE STANDARDS FOR AREAS WITHIN THE RESIDENTIAL II SHOREFRONT DISTRICT

- A.** The purpose of this section is to provide standards for work within the Residential II Shoreland District, which will protect and preserve the high-water quality in the lakes and ponds in the Town of Wakefield.

- B. Areas in the district within 250 feet of a lake or pond shall comply with the requirements of RSA 483-B, the “Comprehensive Shoreland Protection Act” and any amendments thereto.
- C. If a State Shoreland Permit is required, a local Shoreland Permit is also required, and may be obtained through the Building/Code Enforcement Office.
- D. Construction activities within this district shall be completed in a manner, which will ensure that the natural hydrologic features and functions of the site are maintained to the maximum extent possible. Site disturbance shall be minimized. Vegetation outside the project area shall be maintained. The project area shall be depicted on site plans submitted as part of the building permit process.
- E. Best Management Practices (“BMP”) techniques shall be employed to ensure that runoff from the site, both during and after construction, is discharged into the ground and does not reach the surface water.
- F. Any change to the exterior footprint or roofline of a structure shall require an infiltration trench under the drip edge(s) of the structure and along the lower side of the driveway/ parking area to promote infiltration and minimize runoff. Other suitable BMP, such as a rain garden, may be substituted for infiltration trenches when demonstrated to be appropriate.

Wherever there is a conflict between RSA Chapter 483-B and the requirements of this Ordinance, the more restrictive standard shall apply.

ARTICLE 16 – PRIVATE CAMPSITES

- A. **Private Campsite Permitted.** A private campsite is permitted in accord with Article 3, Table 1.
- B. **Limitations.** A private campsite is subject to the following requirements:
 1. One private campsite per lot is allowed for a period no longer than 120 days, consecutive.
 2. A private campsite associated with the construction of a permitted single-family dwelling or duplex shall be allowed for up to one year while a building permit is valid, or completion of construction, whichever occurs first. The Planning Board may allow the private campsite to remain for up to two (2) additional years if in its judgement, the applicant has diligently pursued construction of the single-family dwelling or duplex, and has made substantial construction progress.
 3. No campsite shall be used for any means as a permanent residence.
 4. A private campsite placement on any lot shall conform to the setback requirements in Article III, Table 2.
 5. Solid waste and sewerage shall be disposed of in a lawful manner.
 6. A parcel owner shall not receive any form of compensation from use of a private campsite.

7. Any camping vehicle connected to a water supply shall be hooked to a Sewage Disposal System approved by the NH Department of Environmental Services.

C. Storage of Private Camping Structures. Nothing herein shall preclude the storage of an unoccupied recreational vehicle on private property provided all other State and local requirements are met. Tents and similar structures shall be collapsed and stored when unoccupied. Likewise, recreational vehicles, including campers and pop-ups, shall be stored in their fully collapsed, road-ready configuration, disconnected from all utilities, while unoccupied.

ARTICLE 17 – IMPERVIOUS SURFACE COVERAGE

Building coverage shall not exceed forty-five percent (45%) of the buildable area. “Impervious surface coverage” as defined in this Ordinance shall not exceed eighty (80%) percent of the buildable area, except in the Aquifer Conservation Overlay District, where it shall not exceed fifty (50%) percent and in the Protected Shoreland Zone, where it shall not exceed thirty (30%) percent.”

ARTICLE 18 – RESIDENTIAL AND COMMERCIAL UNITS – MAXIMUM

The total number of units allowed on a parcel shall be determined using the following formula:

Total Units Permitted = Base Density multiplied by Total Acres minus the total acres of the Unbuildable Land and the Road and Utility Right of Way

$$T = BD [A - (U + R)]$$

- T = Total Units Permitted (dwelling units)
- BD = Base Density (dwelling units / acre)
- A = Total Site Area (acres)
- U = Unbuildable Land (acres)
- R = Road and Utility Right of Way (acres)

Example:

Total Dwelling Units	T = # total dwelling units permitted	? dwelling units
Base Density	BD = dwelling units per acre	1 dwelling units per 3 acres
Total Site Area	A = total acres at site	10 acres
Unbuildable Land	U = acres unbuildable land	2 acres
Road and Utility Right of Way	R = acres for road and utility right of way	2 acres

$$T = BD [A - (U + R)]$$

$$T = 1/3 [10 - (2 + 2)]$$

$$T = 1/3 [6]$$

$$T = 2 \text{ total dwelling units permitted}$$

(Note: In applying the above formula, a result that contains a remainder of less than .5 shall be rounded

down to the next whole number; a result that contains a remainder of .5 or greater shall be rounded up to the next whole number.)”

ARTICLE 19 – WATERFRONT ACCESS

- A. Purpose.** This Article establishes criteria for non-waterfront lots and non-waterfront dwelling units to acquire access to any lake, pond or watercourse.
- B. Prohibition.** A lot that is contiguous to the shoreline of any lake, pond or watercourse is prohibited from allowing, by grant, lease or otherwise, a right to cross it for the purpose of providing to any other lot access to the lake, pond or watercourse, except as permitted in this Article and RSA Chapter 483-B:9 entitled “Minimum Shoreland Protection Standards”.
- C. Definitions.** For purposes of this Article, see Article 33 “Definitions” for the meaning of “Recipient Lot or Recipient Dwelling Unit,” “Servient Waterfront Lot,” and “Exclusive Shoreland Frontage.”
- D. Minimum Standards.** The minimum exclusive shoreland frontage required is 150 feet for the first recipient lot and dwelling unit thereon. For each additional dwelling unit on the recipient lot, an additional 100 feet of exclusive shoreland frontage is required.

The minimum exclusive shoreland frontage required is 150 feet for each recipient dwelling unit not located on a recipient lot.
- E. Additional Requirements.** The Planning Board shall, when necessary to protect water quality, safety, or health, ensure there is sufficient access/ingress, parking area and toilet facilities on or near the servient waterfront lot for each recipient lot and recipient dwelling unit.
- F. Subdivision Approval Required.** Any granting of waterfront access shall be considered a subdivision, and prior to granting waterfront access to a Recipient Lot or Recipient Dwelling Unit, the owner of the Servient Waterfront Lot shall obtain subdivision approval from the Planning Board.

ARTICLE 20 - SEASONAL DWELLING CONVERSION

- A. Purpose.** This Article establishes the requirements for the conversion of seasonal dwellings to permanent occupancy.
- B. Application.** This Article applies to the conversion of any seasonal dwelling regardless of date of construction or occupancy.
- C. Conversion/Requirements.** The conversion of a seasonal dwelling to a home that is, or may be used as the primary or year-round dwelling, shall not be allowed unless the following conditions are met:
 - 1. Septic System.** The applicant must submit proof of compliance with RSA 485-A:38 in full accordance with Env-Wq 1004.15 & 1004.16, any all other pertinent sections of the

Administrative Rules of the New Hampshire Department of Environmental Services as they pertain to conversion to full-time use or occupancy of existing structures.

2. Holding tanks are not permitted.

D. Permit. A person seeking to convert a seasonal dwelling to year-round occupancy shall obtain an occupancy permit from the Wakefield Code Enforcement Office to ensure compliance with all applicable town and state codes.

ARTICLE 21 – SIGNS

A. PURPOSE. The intent of this Article is to allow the erection of a sign or signs, for the purpose of providing information and advertising, in an orderly, effective, and safe manner. Restrictions on type, location and size of signs are to protect the public from hazardous and distracting displays and create an attractive environment that is conducive to local business, industry, and tourism, yet in keeping with the rural character of the community.

B. PERMIT REQUIRED. Any applicant wishing to erect a sign, which is not exempt under this Article, shall first obtain a building permit from the Town. The application shall contain, at a minimum, the following information:

1. Name(s), address and telephone number of the applicant;
2. Name(s), address and telephone number of the property owner(s), if different;
3. Tax map and lot number(s) of the premises where the sign is to be located;
4. Purpose of the sign;
5. Zoning district in which the sign is to be located;
6. Sketch drawn to scale of premises, showing location of sign on lot or on building, together with its dimensions and coloring.
7. Sketch drawn to scale showing design of the sign, materials to be used, method of construction and means and position of attachment to the building or the ground;
8. A description of any illumination to be used on or in the sign;
9. Any other information reasonably requested by the building inspector to allow the building inspector to make a determination whether the proposed sign conforms to this Ordinance and/or other applicable regulations.

C. EXEMPT SIGNS. The following signs are exempt from the sign regulations of this Ordinance, but may not be exempt from state sign regulations:

1. **Government Sign.** A sign erected by the municipal, State, or federal government that is required for the public safety and welfare.

2. **Preexisting Sign.** A sign that qualifies as a non-conforming structure.
3. **Private Property/Trespass Sign.** A sign that indicates the existence of private property, or which forbid trespassing, hunting, or other such activities. Such signs shall be spaced at least fifty (50) feet apart and shall not exceed two (2) square feet each.
4. **Indoor Sign.** A sign, including a window display, which is located within a residence or structure whose primary purpose is for human habitation, whether as a residence, business, etc.
5. **Incidental Private Property Sign.** A sign located on private property and intended to regulate or guide activities within the property even though such sign may incidentally be visible off the property.
6. **Directional Sign.** A sign having no commercial message, indicating entrance and/or exit to a site, with a message area of two square feet or less (per side if two-sided).

A legally approved business is allowed one off-site directional sign no larger than (2) two square feet (per side if two-sided) and must meet Town sign standards.

7. **Non-Commercial Identification.** A sign with a message area of one square foot or less, which bears only a property number, post office box number, name of occupant, other non-commercial identification, or a message of the following type: "open", "closed", "now hiring", "vacancy", "no vacancy", etc.
8. Parcels may have signs totaling up to nine (9) square feet along their frontage provided that they do not interfere with the flow of traffic or visibility of drivers.

D. DESIGN STANDARDS.

1. No more than one (1) non-free standing sign, with a maximum aggregate area of 32 square feet each side, is permitted on a premises with the following exceptions:
 - a. Two signs shall be permitted if the business fronts on two roads in which case the total area of each sign shall not exceed 32 square feet.
 - b. The maximum aggregate area shall not exceed 9 square feet if the primary use of the premise is any of the following: a dwelling or home enterprise.
 - c. The maximum aggregate area shall not exceed 9 square feet for the following: temporary real estate or artisan sign; yard/garage sale; or roadside stand.
2. Only one (1) free-standing sign with a maximum aggregate area of 50 square feet is permitted per lot, but two signs shall be permitted if the business fronts on two roads in which case the total area of each sign shall not exceed 50 square feet.
3. A sign shall not, by reason of location, size, color, or design interfere with public traffic or be confused with or obstruct the view or effectiveness of any official traffic signal or traffic marking.

4. A sign shall have a maximum height, from the ground to the uppermost point, of 20 feet.
 5. A sign shall be illuminated only by an external light source and each light source shall be located, directed and/or shielded such that it is not visible at any point along the property boundary, nor from any right-of-way or neighboring property.
 6. A sign must be attractive and in keeping with the neighborhood.
 7. A sign shall not be placed within the side or rear lot line setbacks, but can be placed within the front lot line setback.
 8. A wall sign shall be subject to the following additional requirements:
 - a. No wall sign shall extend above the top of the wall upon which it is mounted.
 - b. No wall sign, or any part thereof, shall project more than ten (10) inches from the wall upon which it is mounted.
 - c. No wall sign shall extend beyond the left and right extremities of the wall to which it is mounted.
 9. A projecting sign shall be subject to the following additional requirements:
 - a. No projecting sign shall project more than five (5) feet beyond the wall, porch or edge of the building in the direction of the street, nor shall any portion of the projecting sign be closer than two (2) feet to the face of the street curb or curb line.
 - b. No portion of any projecting sign shall be less than eight (8) feet above grade level.
 - c. No projecting sign shall have a vertical dimension greater than three (3) feet.
 10. A sign for a multiple use development (such as a shopping center with more than one business) may have a total area of up to 100 square feet by Special Exception. In the event the multiple use development qualifies to have more than one (1) sign, then each sign may have a total area of up to 100 square feet by Special Exception.
- E. PORTABLE SIGN.** A new business may use a portable sign while awaiting the arrival of a permanent sign. A portable sign shall be allowed only after a permit for permanent sign has been obtained, and only until the permanent sign is installed, or for sixty (60) days, whichever is shorter.
- F. PROHIBITED SIGNS.**
1. A sign that advertises any business or other commercial venture that has permanently ceased conducting business.
 2. A search light or the use of a search light or similar bright light beam to attract attention.
 3. A sign that incorporates in any manner any flashing or moving illumination or with illumination

which varies in intensity or varies in color, that has any visible moving parts, visible revolving parts, or visible mechanical movement of any description, or other apparent visible movement achieved by electric pulsations or by actions of normal wind current or otherwise, except when not visible from motor vehicles traveling on public roadways. A hanging sign which simply swings in the wind, clock and time and temperature signs and barber poles shall be exempt provided it complies with all other provisions of the Zoning Ordinance. A time, date and temperature sign may include a device indicating digital time and temperature, but shall not change in any interval that indicates flashing

4. A sign, which by reason of size, location, content, coloring, or manner of illumination, obstruct the vision of drivers, or pose an unreasonable distraction to drivers, or obstruct or detract from the visibility or effectiveness of any traffic sign or control device on public streets and roads.
5. A sign which obstructs free ingress to or egress from a fire escape, door, window or other required exit way.
6. A sign on public property or public right-of-way, unless erected by a governmental body, or unless required to be so located by order of a governmental body. No sign located on public property or a public right-of-way shall bear any commercial advertising or announcement.
7. String lights or bare bulb illumination, other than temporary holiday decorations, which are unshielded from view from off the property on which they are located.
8. Flame as a source of illumination.
9. An oversized pennant, banner, spinner, streamer or balloon except for occasions such as grand openings and then only with special written permission of the Selectmen. Use shall be limited to a fifteen (15) day period and shall not be erected again for a period of thirty (30) days thereafter. This does not include banners containing the word "open" or some other salutation and less than fifteen (15) square feet in size which will be permitted at any time that the business is open.
10. A sign or sign structure which constitutes a hazard to public safety or health.
11. Franchise architecture is considered excessive signage and is not permitted.

G. MAINTENANCE AND OBSOLESCENCE. All signs and sign structures shall be properly maintained and kept in a neat and proper state of maintenance and appearance. A sign of any type and located within any District found by the Board of Selectmen or its duly authorized representative to be in a state of disrepair or considered dangerous, shall be repaired or removed on order of the Board of Selectmen or its duly authorized representative. Upon failure to comply with the order of the Board of Selectmen or its duly authorized agent within the time specified, the Board of Selectmen or its duly authorized agent shall cause removal of this sign and any expense resulting therefrom shall be borne by the owner of the property upon which the sign is located, or the owner of the sign, or both.

H. NON-CONFORMING SIGN. A sign lawfully in existence prior to the adoption of these regulations that does not conform to these regulations shall be permitted to continue and be maintained. No change in type, size of message area or support structure, height, location, message, illumination, number or material shall be permitted without application to and approval from the Town. Permitted changes may allow reduction in any one or more of the non-

conforming aspects, but shall not allow any non-conforming aspect of the sign to increase in non-conformity.

I. SIGNS ALLOWED BY SPECIAL EXCEPTION OR CONDITIONAL USE PERMIT

The following may be allowed by Special Exception:

- 1.** A sign whose height exceeds twenty (20) feet. However, in no event shall a sign's height exceed thirty (30) feet.
- 2.** More than one free-standing sign.
- 3.** More than one sign per premises.
- 4.** A sign that advertises an off-site business or activity provided the sign does not exceed nine (9) square feet in area.
- 5.** An internally illuminated sign, but only in the Business and Commercial District, and subject to reasonable restrictions as may be imposed by the local land use board to include limiting the degree of illumination, requiring appropriate shielding, and limiting hours of illumination, all to minimize the intrusion of light onto adjacent properties.
- 6.** A sign up to one hundred (100) square feet in area to advertise shopping centers and similar multiple-use developments and businesses.
- 7.** Additional signs in any district.
- 8.** Roof sign.
- 9.** A Window sign that is brightly lit from the rear or internally illuminated.
- 10.** A sign located within a side or rear lot line setback.

Requirements for a Special Exception for a sign:

- 1.** Any person desiring consideration for a Special Exception by the Zoning Board of Adjustment shall file an application with the Board and in addition to other requirements imposed by this Ordinance attach to it the following information:
 - a.** A map or site plan showing the location of the building, structure, or lot to which the sign is to be attached or erected, and showing the position of the sign in relation to nearby buildings and public thoroughfares. Such a map or site plan must be to scale.
 - b.** A plan (or picture) showing the design of the sign, materials used, method of construction, and means and position of attachment to the building or the ground. Plans must be drawn to scale.

ARTICLE 22 – YARD SALES.

A yard sale is permitted in all districts and is subject to the following requirements:

- A. A sign for a yard sale shall be in conformance with the requirements of Article 21.
- B. A yard sale shall occur only during daylight hours. Its location and method of operation will cause no unreasonable disturbance, impedance to normal traffic flow, or compromise safety in the neighborhood and the general public.
- C. The premises shall be cleared of trash and debris will be removed immediately at the conclusion of the yard sale. All items not sold shall be removed from the site or stored in a permitted structure or in an area out of the public view within 48 hours of the conclusion of the yard sale.

ARTICLE 23 – HOUSING FOR OLDER PERSONS

The maximum density for Housing for Older Persons is one (1) dwelling unit per buildable acre for lots located in the Residential III and Agricultural districts; and two (2) dwelling units per buildable acre in the Residential I district. The maximum density in other districts where the use is allowed is as permitted by Article 3 – Table 3 – Density and Minimum Dimensional Requirements.

The allowable number of dwelling units per building in a multi-family structure for Housing for Older Persons is a maximum of four (4). Each dwelling unit shall have a maximum of 2 bedrooms and a minimum of 600 square feet of indoor living area. For the purpose of this definition covered walkways, basements and garages shall not be construed as a portion of any building.

The number of full-time residents of a single dwelling unit in a residential community approved under this Article shall not exceed three (3).

A residential community approved under this Article must contain the following requirements. However, the Planning Board may waive strict adherence to one or more of the following requirements if it makes specific findings that the need addressed by the requirement (a) can be met by an alternative on-site or nearby resource, or (b) given the location or other characteristics of the proposed residential community, the requirement is rendered unnecessary:

- A. A year-round recreation/ social center to provide social activities for residents of the 55 and older community. A first aid room to include such items as an automatic defibrillator, eye wash kit, complete first aid kit, etc., shall be part of this facility;
- B. Compliance with design requirements of the Architectural Barrier Free Design Code for the State of New Hampshire, as amended, for all residential structures with four (4) or more dwelling units and the community/ recreation center. In residential structures with fewer than dwelling four units, each dwelling unit will be designed to allow for future conversion to Architectural Barrier Free Design Code for the State of New Hampshire, as amended;
- C. A back-up generator capable of providing power to all dwelling units and the community/ recreation center during a power outage;

- D. Walking trails;
- E. Care and maintenance of all interior and outdoor common areas, and the exterior of all structures; and
- F. A passenger van for the group transportation needs of residents of the 55 and older community.

Parking: In residential communities qualifying as Housing for Older Persons, a minimum of 2.25 spaces of off-street parking, not to include garages, shall be provided per dwelling unit.

ARTICLE 23A – ASSISTED LIVING FACILITIES/LIFE CARE FACILITIES

The maximum density for Assisted Living Facilities/ Life Care Facilities is two (2) dwelling units per buildable acre for lots located in the Residential I, one (1) dwelling unit per buildable acre in Residential III and Agricultural districts; maximum density in the Village/ Residential district is five (5) dwelling units per buildable acre. The allowable number of dwelling units in a multi-family structure for Assisted Living Facilities/ Life Care Facilities is a maximum of fifteen (15). Key components of this type of facility include congregate dining facilities, common living/ community/ recreation room, and staff on-site 24-hours a day).

Each dwelling unit created as part of an Assisted Living Facility/ Life Care Facility shall have a maximum of 2 bedrooms and a minimum of 600 square feet of indoor living area. For the purpose of this definition covered walkways, basements and garages shall not be construed as a portion of any building. The number of full-time residents of a single dwelling unit in these facilities shall not exceed three (3). As an alternative, Assisted Living Facilities/ Life Care Facilities may take the form of a single-family dwelling or group home where residents have a private or shared bedroom with common dining and living areas. In a room used as sleeping accommodation in Assisted Living/ Life Care Facilities, the number of full-time residents shall not exceed two (2).

All components of the Facility approved under this Article must comply with the design requirements of the Architectural Barrier Free Design Code for the State of New Hampshire, as amended, and may include a combination of dwelling units and private or shared sleeping accommodations provided all other requirements of this Article are satisfied.

Parking: Facilities qualifying as Assisted Living Facilities/ Life Care Facilities shall provide a minimum of 1.0 space per dwelling unit, not to include garages, plus 0.5 space per room used as sleeping accommodations, plus one space per employee for the number of employees on the largest work shift.

ARTICLE 23B – HOME ENTERPRISES.

- A. There are four categories of home enterprises (including professions and trades) that may be conducted as an accessory use to a residential use on the same parcel:
 - 1. **Home Business** – A business, profession, or trade that is conducted by a resident of the premises, entirely within the residence or an accessory building, and does not involve more than occasional business vehicular traffic to the property. Examples include but are not

limited to: artists, desktop publishers, software developers, and people who work at home and conduct business by mail or electronic communication.

2. **Professional Uses and Customary Home Occupations** – A business, profession or trade that is conducted by a resident of the premises, entirely within the residence or an accessory building, and involves an increase in traffic for clients, patients, associates, or employees. Examples include but are not limited to: doctors, dentists, lawyers, home daycare facilities, accountants, and beauticians.
3. **Home Industry** – A business or trade that is conducted by a resident of the premises, but not necessarily entirely enclosed within structures. A Home Industry involves an increase in traffic for employees and delivery vehicles, and a minimal increase in traffic for clients. A Home Industry may also involve the use or exposure to toxic or waste products that may be harmful to people or the environment. Examples include but are not limited to: craftsmen, wholesale bakery or other wholesale food production, small engine and boat repair.
4. **Home Office** – A home office, subject to the following standards, shall be permitted in all zoning districts, regardless of lot size. A home office meeting all of the standards outlined below requires no permit or approval from the Town or the Planning Board.
 - a. No employees shall be permitted to work at the premises, except for family members who reside in the dwelling;
 - b. No signs shall be permitted, either on or off site;
 - c. No customers or clients shall be seen at the residence;
 - d. The area devoted to the home office shall not exceed twenty-five (25) percent of the gross floor area of the dwelling unit, excluding the basement;
 - e. No outside storage shall be permitted;
 - f. One company vehicle shall be permitted as an accessory to a home office; and
 - g. Deliveries and pick-ups related to the activities of the Home Office shall be of a nature that is consistent with a residential neighborhood.

A home-based business not meeting any one or more of the above standards shall be considered a home enterprise and subject to the appropriate level of review as described in Paragraphs B. through E. of Article 23B – Home Enterprises.

B. General. All three categories listed in Section A. above are subject to the following requirements. In addition, home businesses are subject to the provisions in Section C, professional and customary home occupations are subject to the provisions of Section D, and home industries are subject to the provisions of Section E.

1. The activity must be operated by one or more residents of the dwelling unit.

2. The activity must be incidental and secondary to the primary use of the premises as a residence.
3. The activity must not change the character of the premises or surrounding neighborhood. There shall be no window displays or other features not normally associated with residential use.
4. Required parking must be accommodated off-street, except in locations in the Village-Residential district and the Historic Overlay Zoning District where on-street parking may be permitted at the discretion of the Planning Board. When possible, parking areas shall be located at the side or rear of the residence or accessory buildings.
5. Proof of compliance with all applicable environmental controls is required, including the requirements of the following overlay districts: Aquifer Conservation Overlay District, Wetland Conservation Overlay District, and Floodplain Development Overlay District.
6. Site Plan Review at the appropriate level is required for all home enterprises.
7. Business signage is permitted for home enterprises provided it complies with the requirements of *Article 21 – Signs, Paragraph D – Design Standards Subparagraph 1.a.* of this Ordinance.

C. Home Businesses. Home businesses are permitted in all districts where Single Family Residence is a permitted use without the need for a Special Exception or Conditional Use Permit, if in compliance with the requirements of Section B, above, and the following:

1. The activity must be conducted entirely within the residence or an accessory building.
2. Not more than two non-resident persons shall be employed in the activity at the site.
3. There shall be no exterior display, no exterior storage of materials or equipment, and no other variation from the residential character of the premises.
4. Any resident wishing to establish a home business shall submit a request on the form provided by the Planning Board to the Planning Board’s designee for review. If the Planning Board’s designee determines that the proposed home business is in compliance with the regulations listed above, then he/she shall sign the form stating that the proposed home business is in compliance with this section and does not require approval under Section D or E.

D. Professional Uses and Customary Home Occupation. Professional Uses and Customary Home Occupations are permitted Conditional Use Permit from the Planning Board in all zoning districts where Single Family Residences are a permitted use, except the Residential II – Shorefront district, if in compliance with the requirements of Section B, above, and the following:

1. The activity must be conducted entirely within the residence or an accessory building.
2. Not more than four (4) non-resident persons shall be employed in the activity at the site.

3. There shall be no exterior display, no exterior storage of materials or equipment, and no other variation from the residential character of the premises.
4. The Professional Use and Customary Home Occupation shall not generate traffic that is inconsistent with the traffic associated with a single-family residence.
5. The Professional Use and Customary Home Occupation shall not necessitate more than six (6) parking spaces for clients, patients, non-resident employees, or other business related demands.
6. The Professional Use and Customary Home Occupation shall not entail more than occasional visits by commercial vehicles.

E. Home Industries. Home industries are permitted in the Residential III and Agricultural districts by Conditional Use Permit from the Planning Board, if in compliance with the requirements of Section B, above, and the following:

1. The parcel on which the Home Industry is operated must be a minimum of three (3) acres in size.
2. Not more than six (6) non-resident persons shall be employed in the activity at the site.
3. The Home Industry may be conducted outdoors in part, but all such activities, equipment, and storage shall be permanently screened from the view of abutters and from public ways by buffers such as plantings, fences, and/or topography.
4. The impact on abutters of the outdoor operation of machinery or equipment associated with the Home Industry shall be considered when evaluating the Conditional Use Permit.
5. No more than twenty-five percent (25%) of the lot area, exclusive of areas covered by buildings, shall be used for home-based industry activities including outdoor storage or parking.
6. The Planning Board must determine that access to the premises by all vehicles that are anticipated to commonly serve the Home Industry will do so without adversely affecting safety in the vicinity, whether those vehicles are based on the premises or elsewhere.
7. Compliance with NH Department of Environmental Services' Best Management Practices is required, as applicable.

ARTICLE 23C – FAMILY COMPOUND

A. PREFACE. It is recognized that the “family” is an integral part of society as a whole, and Wakefield in particular. Family businesses are commonplace, as too is family involvement in non-business activities, such as worship, recreation, and tending to the needs of the home. There are many forces at work that act to drive families apart, including the labor market, ease of travel, technology, cost of living, and societal pressures. We are living longer than ever. Families can often span 4 generations.

The increase in real estate prices may make it difficult for families to spend blocks of time together, by interfering with the financial ability of families to buy separate parcels of land in close proximity to one another.

It is with the above observations as the backdrop that family compounds are provided a place in the Wakefield landscape.

However, and as a caveat to the would-be owner(s) of a family compound, caution and prudence should be exercised. A family compound, which ceases to be used solely for “family,” may become subject to enforcement action in order to bring it into compliance with the Zoning Ordinance. Careful planning is encouraged, although not required, that would allow for future subdivision of the family compound into separate lots of record that comply with the Zoning Ordinance in effect at the time the family compound ceases to qualify as such. Although no one knows what the requirements of the Zoning Ordinance will be at any time in the future, thoughtful planning in the present may soften or eliminate possible problems for future heirs or generations when the family compound is no longer a viable alternative.

This Article allows and provides standards for family compounds.

- B. **STANDARDS.** It is encouraged, but not required, that each dwelling be located on the parcel in such a way that, if subdivided, each dwelling will be located on a conforming lot, to include required minimum lot size, road frontage, setbacks, etc.
1. Separate water supply and sewage disposal for each dwelling is not required. However, it is encouraged that each dwelling be located on the parcel in such a way that, if subdivided, each dwelling will have sufficient area available for separate water supply and sewage disposal.
 2. A maximum of three (3) dwelling units per lot.
 3. A shared driveway serving all the dwelling units on a lot is allowed. However, it is encouraged that each dwelling be located on the parcel in such a way that, if subdivided, each dwelling will have the ability for direct driveway access to a street.
 4. Title to the property, to include the land and all dwelling units must be vested in the same owner, which shall be (1) an individual, (2) two or more persons related by blood or marriage, or (2) a New Hampshire entity whose shares or member interests are all held by one or more persons related by blood or marriage. “Related by blood or marriage” means persons who have a valid marriage or civil union certificate, or who are related by virtue of being lineal ascendants or descendants, brother, sister, uncle, aunt, niece, nephew, or first cousin. When title is vested in 2 or more persons, either directly or through ownership in an entity, either the deed shall recite the nature of the familial relationships between the vested interests, or the holders of the vested interests shall provide a statement to the Town reciting the nature of the familial relationships between the vested interests signed by the holder of each vested interest.
 5. Each dwelling must comply with the provisions of the Comprehensive Shoreland Protection Act (RSA Chapter 483-B). The key provisions are summarized as follows: If the parcel is a shorefront parcel, only one dwelling unit per 150’ of shoreland frontage (the average of the distances of the actual natural shoreline footage and a straight line drawn

between property lines) is allowed (RSA 483-B:9,V(d)(2)(A)); and For lots located within 250' of a shoreline that do not have direct frontage, only one dwelling unit per 150' of lot width, as measured parallel to the shoreland frontage, is permitted (RSA 483-B:9, V(d)(2)(B)).

6. The use of single-family dwellings in a family compound is limited to family members and occasional guests. No rent may be charged for any dwelling unit in the family compound.

ARTICLE 23D – ACCESSORY DWELLING UNIT

- A. **DEFINITION.** As used in this article, "accessory dwelling unit" means a residential living unit that is within or attached to a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies.
- B. One accessory dwelling unit shall be allowed without additional requirements for lot size, frontage, space limitations, or other controls beyond what would be required for a single-family dwelling without an accessory dwelling unit. One accessory dwelling unit for any single-family dwelling is allowed.
- C. An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit, but a municipality shall not require that it remain unlocked. Access to the accessory dwelling unit may be directly from the exterior of the dwelling provided that said entrance is constructed in such a way that it is in keeping with the appearance of a single-family dwelling from the street. If an accessory dwelling unit is located in an accessory structure, the appearance of that structure must remain as an accessory structure. The space dedicated as the accessory dwelling unit should be designed in such a way that when its use is discontinued as an accessory dwelling unit, a minimum of time and expense shall be necessary to convert the space back to its previous use.
- D. All regulation applicable to single-family dwellings shall also apply to the combination of a principal dwelling unit and an accessory dwelling unit including, but not limited to lot coverage standards and standards for maximum occupancy per bedroom consistent with policy adopted by the United States Department of Housing and Urban Development.
- E. The applicant for a permit to construct an accessory dwelling unit shall make adequate provisions for water supply and sewage disposal for the accessory dwelling unit in accordance with RSA 485-A:38, but separate systems shall not be required for the principal and accessory dwelling units.
- F. The owner shall occupy either the primary or accessory dwelling unit. The property owner must occupy the dwelling for a minimum of four (4) consecutive months per year.
- G. The accessory dwelling unit shall not exceed 750 square feet and is a Permitted Use in all zones where single-family residences are permitted uses.
- H. No familial relationship between the occupants of an accessory dwelling unit and the occupants of a principal dwelling unit is required.
- I. Accessory dwelling units are not limited to only one bedroom.

- J. An accessory dwelling unit may be deemed a unit of workforce housing for purposes of satisfying the municipality's obligation under RSA 674:59 if the unit meets the criteria in RSA 674:58, IV for rental units.
- K. Off-street parking shall be provided for the primary residence and accessory dwelling unit.

ARTICLE 23E – WORKFORCE HOUSING

- A. **PURPOSE:** The purpose of this section is to provide reasonable and realistic opportunities for the development of multi-family and work force housing within Wakefield. It is intended to promote the continued availability of a diverse supply of home ownership and rental opportunities. This section was established in order to meet the goals related to workforce housing provisions set forth in the Wakefield Master Plan and to meet the State of New Hampshire requirement that all communities provide realistic opportunities for the development of needed workforce housing. At the same time, the Town enacts this Section to assure that any such housing meets reasonable standards and conditions for approval related to environmental protection, water supply, sanitary disposal, traffic safety, and fire and life protection.
- B. **AUTHORITY:** This section is created in accordance with the provisions of RSA 674:58- 674:61. In addition, this innovative land use Ordinance is adopted under the authority of NH RSA 674:21 and is intended as an “Inclusionary Zoning” provision, as defined in NH RSA 674:21 (I)(k) and 674:21 (IV)(a).
- C. **DEFINITIONS:**
 - 1. “Affordable”- Housing with combined rental and utility cost or combined mortgage loan debt services, property taxes, and required insurance that do not exceed thirty (30%) percent of a household’s gross annual income.
 - 2. “Multi- Family Housing”- Any structure containing three (3) or more residential units, each designed for occupancy by an individual household;
 - 3. “Workforce Multi-Family” - For the purpose of workforce housing developments, means a building or structure containing five (5) or more dwelling units, each designed for occupancy by an individual household.
 - 4. “Elderly Affordable Housing”:
 - a. Housing which is intended for sale and which is affordable to households whose head or spouse or sole member is 62 years old with an income no more than ninety (90%) percent of the median income, applicable to Wakefield, as published annually by the United States Department of Housing and Urban Development (HUD);
 - b. Rental housing which is affordable to households whose head or spouse or sole member is 62 or older with an income no more than fifty (50%) percent of the median income applicable to Wakefield, as published annually by HUD.
 - 5. ”Workforce Housing”: Workforce housing developments may consist of:

- a. Housing which is intended for sale and which is affordable to a household with an income of no more than one hundred (100%) percent of the median income for a 4-person household for counties and metropolitan areas of the State of New Hampshire, applicable to Wakefield, as published annually by the HUD;
 - b. Rental housing which is affordable to a household with an income of no more than sixty (60%) percent of the median income for a 3-person household for counties and metropolitan areas of the State of New Hampshire, applicable to Wakefield, as published annually by the HUD. Housing developments that exclude minor children from more than twenty (20%) percent of the units, or in which more than fifty (50%) percent of the dwelling units have fewer than two (2) bedrooms, shall not constitute workforce housing for the purposes of this section.
6. The terms “work force housing” and “affordable housing” are used interchangeably throughout this ordinance.

D. APPLICABILITY:

- 1. Developments under this section shall be permitted within the Village/Residential, Residential I & III, and Agricultural zoning districts by Conditional Use Permit issued by the Planning Board.
- 2. Developments under this section shall not be permitted within the Historic District.

E. PROCEDURAL REQUIREMENTS: Any applicant who applies to the planning board for approval of a development that is intended to qualify as a workforce housing under this section shall follow the Town’s application procedures for a site plan and/or Subdivision approval as defined in the Town’s Site Plan and/or Subdivision Regulations. The applicant shall also provide with the initial application(s), a statement of intent for the development to qualify as workforce housing per RSA 674:60. Failure to file such a statement of intent at the time of submission of the initial application to the Planning Board shall constitute a waiver of the applicant’s appeal rights under NH RSA 674:61, but shall not preclude an appeal under other applicable laws.

F. DEVELOPMENT STANDARDS: Unless otherwise stated herein, housing developments pursuant to this ordinance shall meet the requirements of the Town of Wakefield Zoning Ordinance, Subdivision Regulations, and Site Plan Regulations, as applicable.

1. Density:

- a. Density shall be determined by Article 3 – Table 3 “Density and Minimum Dimensional Requirements” of the Wakefield Zoning Ordinance.
- b. In a mixed income development where there are both market- rate and workforce and/or elderly affordable housing units, a minimum of 25% of the dwelling must qualify as workforce housing and/or elderly affordable housing. The housing units shall be interspersed throughout the overall development unless otherwise approved by the Planning Board.
- c. The maximum number of units per building in a housing development pursuant to this

section shall be eight (8) units unless located within the Village/Residential District where the maximum number of units per building shall be twenty (20) units.

2. Density Bonus:

- a. A site plan or subdivision plan which guarantees thirty (30%) of units proposed with the development (including all units allowed by density bonuses) reserved as workforce housing, may be approved with an increase of fifteen percent (15%) in the density of the site. The Planning Board may allow a reduction of the minimum lot sizes and setbacks of the district to accommodate the increased site density.
- b. A site plan or subdivision which guarantees thirty percent (30%) or more of units proposed with the development reserved as workforce serviced by municipal sewer and water can accumulate a maximum bonus equal to twenty-five percent (25%).
- c. The maximum allowed density shall not exceed that which may be allowed under NH Department of Environmental Services Septic System Design Rules and shall be applicable on the date of site plan and/or subdivision application to the Planning Board.

3. Dwelling units:

- a. Single-family duplexes and multi-family can qualify as workforce and/or elderly affordable housing;
- b. Dwelling units qualifying as workforce housing and elderly affordable housing shall be compatible in architectural style and exterior appearance with the market rate dwellings of similar type in the proposed development and shall not impact the abutting properties. Said housing units shall be interspersed throughout the overall development. The structures must also include energy efficient construction that will ensure affordable annual operation long-term;
- c. Housing shall be so designed as to provide minimal impact to a site, complement and/or be accessory to any other existing or proposed uses on the site;
- d. Any multi-family housing shall be sufficiently screened and buffered in such a way as to mitigate any impact on abutting single-family residential uses;
- e. Housing development as upper story units over an allowed commercial or office use is encouraged;
- f. In a mixed income development where there are both market-rate and workforce housing units, the dwelling qualifying as Workforce Housing shall be made available for occupancy on approximately the same schedule as a project's market-rate units. A schedule setting forth the phasing of the total number of units shall be established prior to final approval by the Planning Board. Said schedule shall be filed at the registry of Deeds, and be properly updated with the Town and Registry as a condition of release of building permits.

4. Frontage, Setbacks, and Yard Regulations: Structures may be located in any manner on the site that meet this Ordinance's requirements and objectives, and provided that the following

dimensional standards are met:

- a. Proposed dwelling units that have their frontage on existing public roads shall have frontages and front yard setbacks as required in the underlying zoning district or applicable overlay district.
- b. Proposed dwelling units shall have the required building setbacks for the underlying zoning district or applicable overlay district along the abutting property lines.

G. ADMINISTRATION OF UNITS- SALES OR RENTALS:

1. In the event of a unit sale or transfer of an owner- occupied unit, the buyer will be certified for income eligibility under this section by an agency with expertise acceptable to the Town, prior to the sale or transfer. A copy of said certification will be provided to the seller.
2. In the event of a rental or renewal of an affordable rental unit, the renter will be certified for income eligibility under this section by an agency with expertise acceptable to the Town, prior to the rental or renewal. A copy of said certification shall be provided to the landlord. Rental units cannot be sublet to a third party by the current renter of record.
3. In the event rental units are sold, the requirements set forth in Section 7(a), pertaining to deed restrictions and recorded housing agreements will apply.
4. A certification fee will be charged for each sale, transfer, or rental term for a unit. The fee will be paid by the purchaser or renter of the unit, as designated by the Town.
5. A third party non-profit organization or property management entity shall be responsible for income verification and ongoing affordability compliance. The designated organization or company shall provide appropriate reports to the Planning Board on these two issues when necessary. The Planning Board may adopt regulations to aid in the implementation and administration of this section pertaining to workforce housing developments.

H. AFFORDABILITY:

1. Units will be sold with deed restrictions and a recorded housing agreement, in a form satisfactory to the Planning Board, that limits, for a period of thirty (30) years renewable upon sale or transfer, the resale value of the unit to not more than the purchase price multiplied by a factor of 1, plus the percentage increase in median income from the year of initial occupancy until the year in which the unit is resold, plus the cost of property improvements, other than normal maintenance, made by the owner.
2. Units will be rented with deed restrictions and a recorded housing agreement, in a form satisfactory to the Planning Board, that limits, for a period of thirty (30) years, renewable upon each rental, the rental price for each unit to an affordable price as determined by the formula set forth above in Section 3 (e)(ii) updated to the year in which the subsequent tenant assumes occupancy, unless no such tenant is found after sixty (60) day good faith effort. Total gross rent to be charged to subsequent tenants shall not exceed the gross rent at the time of initial occupancy times a factor equal to 1 plus the percentage increase in the median area income, updated to the year in which the subsequent tenant occupies the unit.

- I. ANNUAL REPORT:** A third party non-profit or for-profit organization or property management entity shall prepare an annual report certifying that the gross rents of affordable units and the household income of tenants of affordable units have been maintained in accordance with the income restrictions set forth in this section. Such reports shall be submitted to the Planning Board or its designee, and shall list the contract rent and occupant household incomes of all affordable units for calendar year and the dates of initial occupancy for each household. Failure to file a complete with certification by the owner shall be considered a violation of the Wakefield Zoning Ordinance.

ARTICLE 23F – HOME BASED CONTRACTOR YARD

- A. PURPOSE:** To recognize existing home based contractor yards and allow their continued operation; to establish districts where new home based contractor yards will be a permitted use and site development standards for those new home based contractor yards; to maintain or enhance Wakefield’s rural character, aesthetic charm and property values.
- B.** Home Based Contractor Yards are permitted as per Article 3, Table 1, subject to the following:
1. The parcel on which the Home-Based Contractor Yard is located must be a minimum of three (3) acres in the Residential III and Agricultural districts.
 2. Not more than six (6) non-resident persons shall be employed in the activity at the site.
 3. All equipment and materials shall be stored in a neat and orderly manner and whenever possible shall be screened from the view of abutters and from public ways by buffers such as structures, plantings, topography, natural vegetation, fences, and/or siting of the Home-Based Contractor Yard on the parcel.
 4. The Home-Based Contractor Yard shall not occupy more than twenty five percent (25%) of the lot area and shall not exceed two (2) acres whichever is less, exclusive of areas covered by buildings. This restriction is not applicable to a Home-Based Contractor Yard located in the Light Industrial District.
 5. All parking and storage related to the Home-Based Contractor Yard shall comply with the building setbacks for the zoning district in which the Home-Based Contractor Yard is located.
 6. Compliance with NH Department of Environmental Services Best Management Practices is required, as applicable.
- C.** Home Based Contractor Yards existing prior to November 1, 2009 shall have registered with no fee with the Code Enforcement Officer on or before April 1, 2010. Subject to these regulations, such pre-existing home based contractor yards shall be allowed to continue to operate in their present (prior to November 1, 2009) location, provided ownership of the business supported by the Home-Based Contractor Yard remains in the same family operating the Home-Based Contractor Yard as of November 1, 2009. Such pre-existing Home Based Contractor Yards shall be exempt from the provisions of Paragraph B.1. of these regulations, but shall comply with the remainder of these regulations by January 1, 2012.

ARTICLE 24 – PERSONAL WIRELESS SERVICE FACILITIES

A. PURPOSE AND INTENT. It is the express purpose of this Article to:

1. Permit carriers to locate personal wireless service facilities in Wakefield, in compliance with the Telecommunications Act of 1996 and RSA Chapter 12-K entitled “Deployment of Personal Wireless Service Facilities”;
2. Enable wireless services to become available to the citizens of Wakefield;
3. Ensure that personal wireless service facilities are consistent with the town’s land use policies and goals; and
4. Ensure that personal wireless service facilities are compatible with the rural setting and character of Wakefield, including its aesthetics and visual features.

Compatibility is measured based on the change in community scale and character in relation to the height, mass, materials, contrasts, or proportion within the surroundings of a proposed personal wireless service facility. In particular, Wakefield wishes to preserve its many view sheds, its historic structures and areas, and its forested and rural appearance.

All four of the above stated purposes have equal value, and none shall take precedence.

B. LOCATION. Construction of personal wireless service facilities shall be sited by the least visually intrusive manner feasible and comply with the following location hierarchy.

1. Carriers shall be co-located on existing towers, whether inside the town limits or in adjacent communities; if such towers are not available, then
2. Carriers shall be located on existing structures such as bell towers, cupolas, barns, etc.; if such structures are not available, then
3. Carriers shall be located on newly constructed tower(s), provided such new towers comply with this Article.
4. Personal wireless service facilities may be located on existing structures, including, but not limited to, buildings, towers or other mounts, utility poles and towers, and related facilities, provided that such installation preserves the character, appearance and integrity of those structures.
5. Personal wireless service facilities may not be located on a guyed tower or any tower supported by guy ropes, wires or cables for lateral support.
6. Applicants seeking approval for personal wireless service facilities shall first evaluate existing structures for the siting of personal wireless service facilities. Only after finding that there are no suitable existing structures pursuant to this Article shall an applicant propose a new ground mounted facility.
7. If the applicant demonstrates that it is not feasible to locate on an existing structure,

personal wireless service facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to use of compatible building materials and colors, screening, landscaping and placement within trees or on the side slope of a hill or mountain. Ground mounted facilities shall not be located within open areas that are clearly visible from public roads, recreational areas, or abutting properties. A buffer of dense tree growth shall surround all ground mounted facilities.

- C. **APPLICABILITY.** This Article shall apply to personal wireless service facilities proposed to be located on property owned by the Town of Wakefield, on privately owned property, and on property that is owned by any other governmental entity that acts in its proprietary capacity to lease such property to a carrier.

- D. **DEFINITIONS.** All New Hampshire statutory (RSA) and Telecommunications Act of 1996 (TCA) definitions shall apply to this Article. Should any conflict arise between the definitions set forth in this Ordinance and those set forth in either the New Hampshire RSAs or the TCA, the definitions set forth in the New Hampshire RSAs or the TCA shall be controlling.

- E. **PROCEDURE.** An applicant shall be required to submit the following information to the Planning Board:
 - 1. A diagram and/or map showing the view shed of the proposed personal wireless service facility including all buildings and accessory structures.
 - 2. Photo simulations from at least four directions that adequately represent the appearance of the completed structure when viewed from inhabited areas or roads within the Town during the winter months after leaves have fallen from the trees and other vegetation.
 - 3. An inventory of existing personal wireless service facilities that are located within Town borders, including specific information about the location, height, design as well as feasibility for co-location.
 - 4. An inventory of existing structures that are within the jurisdiction of the Town and those within two miles of the Town borders, including specific information about the location, height, and availability for location of a personal wireless service facility.
 - 5. If the applicant is proposing a new personal wireless service facility, written evidence demonstrating that no existing facility within four miles of the proposed personal wireless service facility can accommodate the applicant's needs. This evidence can consist of:
 - a. Substantial evidence that no existing structures are located within the geographic area.
 - b. Substantial evidence that existing facilities are not of sufficient height to meet the applicant's engineering requirements or do not have sufficient structural strength to support applicant's proposed equipment.
 - c. Substantial evidence that existing facilities have no additional capacity.
 - d. Substantial evidence that co-location on an existing facility would cause electromagnetic interference at the existing facility, or vice-versa.

e. Other substantial evidence as may reasonably be required from the applicant.

6. Balloon test may be required.

F. NEW CONSTRUCTION: BURDEN OF PROOF. When applying for construction of a new tower, mast, monopole, or similar structure, the applicant shall have the burden of proving that there are no existing structures available and suitable to locate its personal wireless service facility and/or transmit or receive radio signals. To meet that burden, the applicant shall take all appropriate actions as may be required from the applicant, which may include but not necessarily limited to the following actions:

1. The applicant shall submit a list of all contacts made with owners of potential sites regarding the availability of potential space for a personal wireless service facility.
2. The applicant shall provide copies of all letters of inquiry made to owners of existing structures and letters of rejection. If letters of rejection are not provided, at a minimum, unanswered "Return Receipt Requested" forms from the U.S. Post Office shall be provided for each owner of existing structures that was contacted.
3. If the applicant claims that a structure is not capable of physically supporting a personal wireless service facility, this claim must be certified by a licensed professional civil engineer. The certification shall, at a minimum, explain the structural issues and demonstrate that the structure cannot be modified to support the personal wireless service facility without unreasonable costs.

G. USE PROVISIONS. A personal wireless facility shall require a building permit in all cases and may be permitted subject to compliance with all land use regulations as indicated by approval by the Zoning Board of Adjustment and the Planning Board.

H. DIMENSIONAL REQUIREMENTS. Personal wireless service facilities shall comply with the following requirements:

1. **Height, Existing Structures and Utility Poles:** Carriers that locate personal wireless service facilities on existing structures may be permitted to increase the height of those structures no more than ten (10) feet, provided the facility is completely camouflaged, such as within a flagpole, steeple, chimney, or similar structure, or by otherwise mounting the facility in a manner which effectively camouflages it.
2. **Height, Existing Structures (Utility).** Antennas located on any of the following structures shall be exempt from the height restriction of this Ordinance provided that there is not more than a ten foot (10') increase in the height of the existing structure as a result of the installation of a personal wireless service facility: electric transmission and distribution towers, telephone poles and similar existing utility structures.
3. **Height, Ground-Mounted Facilities:** Ground-mounted personal wireless service facilities shall not exceed thirty (30) feet above the average mature tree canopy height.
4. **Setbacks:** All personal wireless service facilities and their equipment shelters shall comply with the building setback provisions of this Ordinance.

5. **Ridge Lines:** No personal wireless service facility may be situated within a horizontal distance of 300 feet of topographic summits greater than 1000 feet elevation Geodetic Vertical Datum, or within 300 feet of a ridge line leading to such summit.
6. **Fall Zone for Ground Mounts:** In order to ensure public safety, the minimum distance from the base of any ground-mount of a personal wireless service facility to any property line, public road, habitable dwelling, business or institutional use, or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in this Ordinance. The fall zone may cross property lines, so long as the applicant secures a fall zone easement from the affected property owner(s). The area of the easement shall be shown on all applicable plans submitted to the Town, and the terms of the easement shall be provided as part of the Site Plan Review. In the event the Planning Board determines the area of the fall zone will be inadequate to protect the public safety, due to unusual geography of the site or for any other reason, the Planning Board may require an additional area to
7. **Fall Zone for Non-Ground Mounts:** In the event that an existing structure is proposed as a mount for a personal wireless service facility, a fall zone shall not be required, but the setback provision of the Wakefield Zoning Ordinance shall apply. In the case of pre-existing nonconforming structures, personal wireless service facilities and their equipment shelters shall not increase any non-conformity.

I. ABANDONMENT OR DISCONTINUANCE OF USE. Whenever an owner or carrier plans to abandon or discontinue use of a personal wireless service facility, he shall comply with the following:

1. **Notification:** At such time that an owner or carrier plans to abandon or discontinue operation of a personal wireless service facility, such entity will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operation. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operation. In the event that the entity fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operation.
2. **Removal:** Upon abandonment or discontinuation of use, the owner of the land and facility shall be jointly and severally liable to physically remove the personal wireless service facility within ninety (90) days from the date of abandonment or discontinuation of use. “Physically remove” shall include, but not be limited to:
 - a. Removal of antennas, foundations, mount equipment shelters, security barriers, and all other structures and equipment placed on site or constructed in relation to the operation or support of the personal wireless service facility from the subject property.
 - b. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
 - c. Restoring the location of the personal wireless service facility to its natural condition and repose.

3. **Failure to Remove:** If the owner of the facility or the owner of the land upon which it is located does not remove the facility upon the Selectmen's order, then the Selectmen shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility and/or the land shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Selectmen. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security to pay for this action, and take such action as may be appropriate under prevailing law to abate a land use violation, to include a request for injunction, civil fines, and other appropriate relief.

ARTICLE 24A – SMALL WIND TURBINES

- A. **PURPOSE.** This article is enacted in accordance with the purposes outlined in RSA 672:1-III-a. The purpose of this ordinance is to accommodate small wind energy systems in appropriate locations, while protecting the public's health, safety and welfare. In addition, this ordinance provides a permitting process for small wind energy systems to ensure compliance with the provisions of the requirements and standards established herein. It should be noted, according to the US Dept. of Energy, the small wind turbine productivity for Wakefield is the lowest level measured in the State (<350 kWh/year).
- B. **DEFINITIONS.** The following definitions shall apply for the purpose of administration of this Article 24A:
 1. **Shadow Flicker.** The visible flicker effect when rotating turbine blades cast shadows on the ground and nearby structures causing the repeating pattern of light and shadow that can cause disorientation due to flicker vertigo.
 2. **Small Wind Energy System.** A wind energy conversion system consisting of a wind generator, a tower and associated control or conversion electronics, which has a rated capacity of 50 kilowatts or less and which will be used primarily for onsite energy consumption.
 3. **System Height.** The height above grade of the tower plus wind generator, measured from the pre-construction ground level to the highest point reached by the turbine blades.
 4. **Tower.** The monopole, guyed monopole or lattice structure that supports a wind turbine.
 5. **Tower Height.** The height above grade of the fixed portion of the tower, excluding the wind generator.
 6. **Wind Turbine.** The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert wind energy to generate electricity.
- C. **STANDARDS.**
 1. **Zoning Districts:** Small wind energy systems are a permitted use in the following districts only: Residential III and Agricultural. In all other zoning districts, small wind energy systems are allowed by Special Exception or Conditional Use Permit provided the applicant can demonstrate compliance with the standards for setbacks and noise levels. Small wind energy systems are not permitted in the Historic Overlay District, regardless of the underlying Zoning

district.

2. **Maximum Height:** The maximum height of the small wind energy system shall not exceed 30' above the average canopy of the tallest trees within 300 feet of the system. It is the responsibility of the property owner/applicant to demonstrate the proposed system satisfies this requirement.
3. **Setback – Front, Side and Rear:** 150% of system height.
4. **Maximum sound level:** 55 decibels as measured at the property line and confirmed by a sound level analysis prepared by a qualified engineer.
5. **Shadow Flicker:** Small wind energy systems shall be sited in a manner that does not result in shadow flicker impacts on abutting occupied structures, or public or private roads. The applicant has the burden of proving that the shadow flicker will not have significant adverse impacts on neighboring or adjacent uses.
6. **Signs:** All signs, including flags, streamers or decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.
7. **Visual Impacts:** This ordinance recognizes small wind energy systems may pose some visual impacts due to the tower height necessary to access wind resources. The purpose of this section is to reduce visual impacts, without restricting the owner's access to the wind resources.
 - a. The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community.
 - b. All electrical conduits shall be underground.
 - c. The small wind energy system shall be painted or otherwise covered with a non-reflective, unobtrusive color that blends in with the surrounding environment. Recommended colors are off-white or gray.
 - d. A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration.
 - e. Access: No steps or ladders providing ready access to the tower shall be permanently installed on the tower within 8 feet of the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

D. **ABUTTER AND REGIONAL NOTIFICATION:** Per RSA 674:66, all abutters shall be notified. Abutters shall be afforded a 30-day comment period prior to final action on the application. An abutter may appeal the issuance of an approval to the ZBA pursuant to RSA 676:5. Notice of the application shall be provided to the Board of Selectmen.

An application for a small wind energy system shall be reviewed pursuant to RSA 36:56 to determine whether the small wind energy system will have regional impact, as defined in RSA

36:55. If so, the Strafford Regional Planning Commission and the affected municipalities shall be notified by certified mail, which shall be provided 30 days to submit comment prior to final action on the application.

The cost of abutter and regional notifications shall be borne by the applicant.

- E. **ABANDONMENT:** A small wind energy system that is out-of-service for a continuous 12-month period shall be deemed abandoned. The Planning Board or its designee may then issue a Notice of Abandonment to the owner of the small wind energy system. If within 30 days of receipt of the Notice of Abandonment the owner provides the Planning Board or its designee information that demonstrates the small wind energy system has not been abandoned the Notice of Abandonment shall be withdrawn. If it is determined the small wind energy system has been abandoned, the owner shall at the owner's sole expense remove the wind turbine from the tower within three (3) months of receipt of the Notice of Abandonment. If the owner fails to remove the wind turbine from the tower, the Planning Board or its designee may pursue legal action to have the wind turbine removed at the owner's expense.

ARTICLE 24B – OUTDOOR WOOD-FIRED HYDRONIC HEATER

- A. **NUISANCE.** No person shall operate an OWHH unit in such a manner as to create a public or private nuisance. For the purpose of this Article and in addition to "nuisance" as defined by state law, regulation and/or court decision, a nuisance is deemed to be created by an OWHH unit operated through use of prohibited or inappropriate fuels for the OWHH.
- B. **INSTALLATION AND SITING.** As of January 1, 2009, only OWHH units that are EPA-approved Phase I shall be installed.

1. Units must be at least 200 feet from any property line;
2. Units must have a permanent attached stack that is at least 2 feet higher than the peak of the roof of a residence or place of business within 300 feet and not served by the OWHH unit.

As of April 1, 2010, only OWHH units that are EPA-approved Phase II shall be installed.

3. Units must be at least 50 feet from any property line;
 4. Units must have a permanent attached stack that is at least 2 feet higher than the peak of the roof of a residence or place of business within 300 feet and not served by the OWHH units.
- C. **PERMITTING AND OPERATION.** A building permit is required for the installation of all OWHH units. The following information shall be supplied (in addition to other documents normally required by the Code Office) prior to a building permit being issued:

1. Written plans for the proposed OWHH unit, whether in hard copy or digitized format, to include, at a minimum:
 - a. The make and model of the OWHH;
 - b. The precise location of the proposed OWHH unit on the subject property; and

- c. A statement by the owner that the OWHH, when installed, will conform in all respects to all federal state and local law and regulation.
2. All other necessary permits (plumbing, electrical, etc.).

Prior to operation, all OWHH units require a final inspection and approval by the Building Inspector.

Any OWHH units installed or operated within the Town of Wakefield must comply with all applicable federal, state and local laws and regulations.

ARTICLE 25 – CONFORMING AND NONCONFORMING STRUCTURES AND USES - GRANDFATHER CLAUSE.

- A. SUBSTANDARD LOTS.** Lots in subdivisions approved by the Planning Board and/or recorded in the Carroll County Registry of Deeds prior to the enactment of this Ordinance, shall be exempt from the lot area requirements of this Ordinance and any amendments thereto provided that lots meet local and state health and safety regulations and to the extent provided by RSA 674:39.

For the purpose of enforcing health and safety provisions, adjacent substandard lots in common ownership may be required to be combined so as to better meet such provisions, even if the new lot created by the combined lots is substandard.

B. NON-CONFORMING STRUCTURES AND USES.

1. Any lawful use of land or of a structure or part thereof at the time of adoption of this Ordinance may be continued provided, however, that:
 - a. A non-conforming use shall not be changed to another non-conforming use;
 - b. Except as noted below, an expansion of a non-conforming use is prohibited except by variance by the Zoning Board of Adjustment.

A variance is not required if the expansion is a natural expansion which does not change the nature of the use, does not make the property proportionately less adequate, and does not have a substantially different impact on the neighborhood.
 - c. A non-conforming structure may be expanded provided that any expansion meets the setback requirements as required by the regulations for the district in which the structure is located.
 - d. A non-conforming structure may be expanded upward provided that the upward expansion occurs within the existing footprint of the structure and NH-DES Shoreland issues a permit for the expansion, where applicable.
2. Non-conforming structures or uses destroyed by fire, natural disaster, or other means may be repaired or replaced within two (2) years if the degree of non-conformity is not increased.

3. Abandonment of a non-conforming structure or use shall constitute the termination of the right to continue or re-establish the non-conforming structure or use. A non-conforming structure or use shall be considered abandoned if:
 - a. There is the intention to abandon or relinquish the use, and
 - b. There is some overt act or failure to act that carries the implication that the owner neither claims nor retains any interest in the use.
 - c. The non-conforming structure or use has been abandoned for one year or more.

ARTICLE 26 – WAKEFIELD HERITAGE COMMISSION.

The following Article establishes a Heritage Commission whose primary purpose is to administer the provisions of the Historic District.

- A. PURPOSE.** New Hampshire State law declares that its towns and cities are filled with a rich blend of natural and cultural resources that define their special character. Man-made resources, recognized for their historic, cultural, artistic and community significance, frequently suffer from neglect or unsympathetic action.

There is a necessity for identifying and protecting the cultural "cornerstones" of our town. The Wakefield Heritage Commission functions as an advisory board for the entire community.

The Wakefield Heritage Commission is established in accordance with RSA Ch. 673 for the proper recognition, use, and protection of resources, tangible or intangible, primarily man-made, that are valued for their historic, cultural, aesthetic, or community significance within their natural, built, or cultural context.

- B. POWERS.** The Wakefield Heritage Commission shall have advisory and review authority, specifically, as follows:

1. Survey and inventory all cultural resources;
2. Conduct research and publish findings, including reports to establish the legal basis for a district and preparation of heritage district ordinances within the Town prior to its adoption or amendment as provided in RSA 675:6;
3. Assist the Planning Board, as requested, in the development and review of those sections of the Master Plan that address cultural and historic resources;
4. Advise, upon request, local agencies and other local boards in their review of requests on matters affecting or potentially affecting cultural and historic resources;
5. Coordinate activities with appropriate service organizations and non-profit groups;
6. Publicize its activities;

7. Hire consultants and contractors as needed; and
8. Receive gifts of money and property, both real and personal, in the name of the Town, subject to the approval of the Board of Selectmen, such gifts to be managed and controlled by the Commission for its proper purposes.

The Commission may acquire, in the name of the Town, by gift, purchase, grant, bequest, devise, lease, or otherwise a fee or lesser interest, development rights, covenant, or other contractual right, including conveyances with conditions, limitation or reversions, as may be necessary to acquire, maintain, improve, protect, limit the future use of, or otherwise conserve and properly use the cultural resources of the city or town, and shall manage and control the same; provided, however, that the Town, or Commission shall not have the right to condemn property for these purposes.

C. ADMINISTRATION OF HISTORIC DISTRICT REGULATIONS. In addition to the powers conferred elsewhere in this Ordinance, the Wakefield Heritage Commission shall exercise duties, which include:

1. All the powers and duties assigned the Historic District Commission by RSA 674:46-a, as amended;
2. Administrative authority of the Wakefield Historic District, as identified in this Ordinance.

D. APPROPRIATIONS AND EXPENDITURES. The Town may appropriate money as deemed necessary to fulfill the purposes of the Wakefield Heritage Commission. The whole or any part of money so appropriated in any year and any gifts of money received pursuant to RSA 674:44-b shall be placed in a Heritage Fund and allowed to accumulate from year to year. The Heritage Commission may expend money from such fund for its purposes without further approval of the town meeting.

The Town Treasurer, pursuant to RSA 41:29, shall have custody of all monies in the Heritage Fund and shall pay out the same only upon order of the Heritage Commission. The disbursement of Heritage Funds shall be authorized by a majority of the Heritage Commission. Prior to the use of such funds for the purchase of any interest in real property, the Heritage Commission shall hold a public hearing with notice in accordance with RSA 675:7.

E. MEMBERSHIP. The Selectmen shall appoint a Wakefield Heritage Commission comprised of seven (7) members and five (5) alternate members. Membership on the Commission shall be as follows:

1. One member shall be a member of the Board of Selectmen;
2. One member may be a member of the Planning Board;
3. No less than two of the members shall be residents of historic districts;

All terms shall be for three years. A vacancy for an unexpired term shall be filled in the same manner as original appointment. The members shall elect a chairperson for a one year term.

F. SCHEDULING OF MEETINGS. Meetings of the Wakefield Heritage Commission shall be

held at the call of the chairperson and at such other times as the Commission may determine.

- G. DISQUALIFICATION OF MEMBER.** No member of the Wakefield Heritage Commission shall participate in deciding or shall sit upon the hearing of any question which the Commission is to decide in a judicial capacity if that member has a direct personal or pecuniary interest in the outcome, or if that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law. Reasons for disqualification do not include exemption from service as a juror in a trial of the same matter in any action of law or knowledge of the facts involved gained in the performance of the member's official duties.

ARTICLE 27 – ZONING BOARD OF ADJUSTMENT

- A. ESTABLISHMENT.** In accordance with the provisions of RSA 673:1, the Town of Wakefield hereby establishes a Zoning Board of Adjustment.
- B. MEMBERSHIP.** In accordance with RSA 673:3, the Zoning shall consist of five (5) members. These five members shall be appointed by the Board of Selectmen and shall serve terms in accordance with RSA 673:5. Membership shall conform to the multiple board membership requirements of RSA 673:7.

The Board of Selectmen shall also appoint up to five (5) alternate members to the Zoning Board of Adjustment. Alternate members shall serve terms in accordance with RSA 673:6.

- C. DUTIES.** As per RSA 674:33, the Zoning Board of Adjustment shall have the authority to hear and decide upon appeals from administrative decisions, applications for Special Exceptions, and applications for variances from the Zoning Ordinance. All business of the Board shall be conducted in accordance with RSA 674:33 and the Board's adopted procedures.
- D. FEES.** The Zoning Board of Adjustment is hereby authorized to impose reasonable fees upon an applicant for matters pertaining to requests for Variances (where the applicant is not required or expected to also submit an application to the Planning Board arising out of the same operative facts) and requests for Special Exception for the expense of consultant services to review documents. Any such fees shall be subject to the provisions of RSA 673:16.

ARTICLE 28 – SPECIAL EXCEPTION

- A.** The Zoning Board of Adjustment may, in appropriate cases, and subject to safeguards as determined by the Board, grant a permit for a Special Exception.
- B.** The Board, in acting on an application, shall take into consideration the following conditions:
1. The proposed use(s) shall be only those allowed in this Ordinance by Special Exception;
 2. The proposed use(s) is/are consistent with the adopted Master Plan;
 3. The specific site is an appropriate location and is of adequate size for the use;
 4. The use, as developed, will not adversely affect the character of the area in which the

proposed use will be located;

5. There will be no nuisance or serious hazard to vehicles or pedestrians;
 6. The use will not place excessive or undue burden on Town services and facilities;
 7. There would be no significant effect resulting from such use upon the public health, safety, and general welfare of the neighborhood in which the use would be located.
- C. If the Zoning Board of Adjustment approves an application for a Special Exception, it shall impose relevant conditions specified in all applicable specific standards in this Ordinance. The Board shall also impose such additional conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purposes of this Ordinance, including, but not being limited to, the following:
1. Yards larger in area or in any specified dimension than those required by the Ordinance;
 2. Screening of all or part of the premises of the proposed use by walls, fencing or planting;
 3. Modification of the design of any building involved in the proposed use;
 4. Parking facilities greater than those otherwise required under this Ordinance;
 5. Limitations of the number of occupants or employees upon the premises, and restrictions of the method and/or time of operation and use, and of size or extent of facilities;
 6. Limitations upon the size, location and/or lighting of signs more restrictive than those otherwise imposed by the Article 20 of this Ordinance, including the prohibition of signs where, in the opinion of the Board, their display would be contrary to the purposes of the Ordinance;
 7. Requiring that any future enlargement or alteration of use be accomplished only with the approval of the Zoning Board of Adjustment; and

ARTICLE 29 – CONDITIONAL USE PERMIT

- A. The Planning Board may, in appropriate cases, and subject to safeguards as determined by the Planning Board, grant a conditional use permit per RSA 674:21 for a land use in accordance with Table 1 of Article 3.
1. The proposed use(s) shall be only those allowed in this Ordinance by Conditional Use Permit;
 2. The proposed use(s) is/are consistent with the adopted Master Plan;
 3. The specific site is in an appropriate location and of adequate size for the use;
 4. The use, as developed, will not adversely affect the character of the area in which the proposed use will be located;

5. There will be no nuisance or serious hazard to vehicles or pedestrians;
 6. The use will not place excessive or undue burden on Town services and facilities;
 7. There would be no significant effect resulting from such use upon the public health, safety, and general welfare of the neighborhood in which the use would be located.
 8. If the Conditional Use is for a Boat Launch Facility, the Planning Board shall consider whether the addition of the boat launch facility will pose an increased risk of infestation by invasive species (such as milfoil, etc.) to the Town's natural resources and, if so, what steps will be taken to eliminate the increased risk.
- B. The Planning Board, in acting on an application, shall take into consideration the following conditions:
- C. If the Planning Board approves an application for a conditional use permit, it shall impose relevant conditions (in addition to any imposed above or pursuant to its Site Plan Review Regulations or otherwise) specified in all applicable specific standards in this Ordinance. The Board shall also impose such additional conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purposes of this Ordinance, including, but not being limited to, the following:
1. Yards larger in area or in any specified dimension than those required by the Ordinance;
 2. Screening of all or part of the premises of the proposed use by walls, fencing or planting;
 3. Modification of the design of any building involved in the proposed use;
 4. Parking facilities greater than those otherwise required under this Ordinance;
 5. Limitations of the number of occupants or employees upon the premises, and restrictions of the method and/or time of operation and use, and of size or extent of facilities;
 6. Limitations upon the size, location and/or lighting of signs more restrictive than those otherwise imposed by the Section 4.03 of this ordinance, including the prohibition of signs where, in the opinion of the Board, their display would be contrary to the purposes of the Ordinance;
 7. Requiring that any future enlargement or alteration of use be accomplished only with the approval of the Planning Board; and
 8. If the Conditional Use Permit is for a Boat Launch Facility, the Planning Board may impose such additional conditions (in addition to any imposed above or pursuant to its Site Plan Review Regulations or otherwise) as it finds reasonably appropriate and necessary to safeguard the neighborhood and/or natural resources of the Town, or otherwise serve the purposes of this Ordinance, including, but not limited to, the following:
 - a. The size and type (to include whether motorized or not) of watercraft allowed to use the boat launch;

- b. The number of watercraft allowed to use the boat launch in any given period;
 - c. The dates, days and hours of operation;
 - d. The use (public or private) of the facility;
- D. Prior to the granting of a conditional use permit for a Boat Launch Facility, and in addition to the requirements set forth in Sections 1 and 2 above, the Planning Board shall ensure that all of the requirements set forth in the definition of “Boat Launch Facility” are met, failure of which the request for conditional use permit shall be denied.

ARTICLE 30 – VARIANCE

Appeals to the Zoning Board of Adjustment may be made by any aggrieved person or by others in accordance with New Hampshire Revised Statutes Annotated as amended.

VARIANCE: A variance is an authorization, which may be granted under special circumstances, to use your property in a way that is not permitted under the terms of the Zoning Ordinance. For a variance to be legally granted you must show that your proposed use meets all five (5) of the following conditions, which you must address on the application, as well as at the public hearing where your application will be heard.

In order to be granted a variance, you will need to prove the following:

- A. The proposed use would not diminish surrounding property values,
- B. Granting the variance would not be contrary to the public interest,
- C. Granting the variance would do substantial justice,
- D. The use is not contrary to the spirit of the ordinance, and
- E. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

ARTICLE 31 – RESERVED

ARTICLE 32 – APPEAL

Any person seeking to appeal a decision of the Zoning Board of Adjustment, Planning Board, or any administrative decision must comply with the provisions of RSA Chapters 676 and 677. It is strongly recommended that anyone seeking to appeal a decision consult with legal counsel. Although the clerks for the various Wakefield boards and departments may be able to assist a person in directing him or her to the proper forms for appeals to the Zoning Board of Adjustment for certain matters, they are unable to provide any person with legal advice. Failure to perfect a right of appeal within time limits prescribed by New Hampshire statutes and otherwise may result in the denial of the appeal.

ARTICLE 33 – DEFINITIONS

ACCESSORY USE. A use which is dependent on or pertaining to the permitted use, i.e., subordinate use of the property occasioned by the main use and an incident of it, rather than a principle use in and of itself. An accessory use shall be a use that is customarily associated with the primary use. An accessory use shall not require the existence of a primary use on a lot provided the accessory use is consistent with the permitted uses in the zoning district, and either (1) the primary use is located on a contiguous parcel under the same ownership, or (2) the lot is otherwise unbuildable for a permitted use due to topographical or other unique characteristics of the lot.

AGRICULTURAL - COMMERCIAL. The production, keeping, or maintenance, for sale, lease, of plants and/or animals useful to humans, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock including, beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof; bees and apiary products; fur animals; fruits of all kind; vegetables; or lands devoted to a soil conservation or forestry management program.

AGRICULTURAL – PERSONAL. The production, keeping, or maintenance, for personal use, of plants, trees, shrubs and/or animals.

ANTENNA ARRAY. A collection of antennas attached to a mount to send and receive radio signals.

ASSISTED LIVING/LIFE CARE FACILITY. A living arrangement in which persons with special needs reside in a facility that provides assistance with everyday tasks such as meal preparation, bathing, dressing, and taking medication. These facilities may provide apartment living for an individual or couple in multi-unit structures, where the residents have a choice of taking their meals in a congregate dining room or individually in their apartments. Or such facilities may be a single-family residence or group home where residents have a private or shared bedroom with common living and dining facilities. These facilities may provide a combination of these types of living arrangements.

AVERAGE TREE CANOPY HEIGHT. An average height found by inventorying the height at above ground level (AGL) of all trees over twenty (20) feet in height within a 400' radius of the proposed facility.

BASE DENSITY. The initial density permitted under the property's residential zoning district, i.e., the number of dwelling units per acre.

BASEMENT. That part of a building that is wholly or partly below ground level.

BED AND BREAKFAST. An existing structure or a new or existing single-family dwelling, in which the live-in owner or manager provides up to 8 guest rooms to the general public at a daily rate or on a short-term basis of less than 30 days. Guest rooms may have private or shared baths. Breakfast service is included in the daily rate and limited to registered guests only.

BEST MANAGEMENT PRACTICES. Methods that have been found to be the most effective and practical means of preventing or reducing pollution.

BOAT AND MARINE CRAFT DEALER. A place of business whose primary activity is the sale of watercraft, marine engines, and whose secondary activity is the sale of related accessories such as docks,

lifts, trailers, life jackets, boat fuel additives, cleaning products, etc. Such a business will also be allowed to conduct watercraft and marine engine repairs and maintenance.

BOAT LAUNCH FACILITY. A facility for the launching of watercraft on a body of water.

- A. Public – Owned and/or operated by a governmental agency
- B. Commercial - Owned or operated by a non-governmental person or organization open to the public on a demand basis.
- C. Group - Owned or operated by a condominium, campground, homeowners' association or other group and open only to members of that group.
- D. Private – Privately owned and for the use of the property owner.

BOAT STORAGE FACILITY. One or more buildings used for the cold weather warehousing or storage of boats and watercraft owned by third parties. A boat storage facility shall not include the storage of boats or watercraft for sale or resale by a boat dealer.

BUILDABLE AREA. That portion of a parcel upon which a structure may be erected. Exclusions from the buildable area are: steep slopes; wetland soils; rock outcrops; floodplains; proposed or existing rights-of-way and utility easements; and state and local required setbacks.

BUILDING. A structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

BUILDING WIDTH. The dimension that runs roughly parallel to the street.

BUSINESS AND COMMERCIAL. Activities involving the sale of goods or services carried out for profit.

CAMPSITE. A designated area located in a recreational campground or camping park that is for use by either one recreational vehicle, one tent, or a similar shelter.

CAMPSITE, PRIVATE. A designated area not located in a recreational campground or camping park that is for use by either one recreational vehicle, one tent, or a similar shelter.

CAREGIVER. A person, paid or unpaid, who cares for someone requiring frequent, although not necessarily daily assistance, with normal day-to-day activities due to a disability, frailty, mental health problems, learning or developmental disabilities or age (children or the elderly).

CARETAKER. A person who cares for a property in exchange for rent-free living accommodations with the possibility of additional compensation; or a person who lives in a residential unit of a mixed-use premises and who, in exchange for rent and/or other consideration, is responsible for overseeing and/or operating the business portion of the mixed-use premises.

CHURCH. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

CO-LOCATION (in relation to personal wireless service facilities). The use of a single mount on the ground by more than one carrier (vertical co-location) or the same carrier with multiple licenses, and/or the use of several mounts on an existing building or structure by more than one carrier or the same carrier

with multiple licenses.

CONSERVATION EASEMENT. A legal agreement between a landowner and a land trust, government agency or other qualified party that permanently limits uses of land to protect conservation values. It allows the property owner to continue to own and use the land and to sell it or pass it on to heirs. The easement may permit or restrict public access, allow or disallow recreational use and development, and similar provisions. Easements are recorded and linked to the title of the land, regardless of its subsequent ownership. (Per RSA 477:45, 477:46, and 477:47)

DEVELOPMENT. Any construction or grading activities on real estate for other than agricultural or forestry practices.

DWELLING UNIT. One or more rooms, designed, occupied, or intended for occupancy as a separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a family maintaining a household.

DWELLING UNIT, TWO-FAMILY. A building containing two dwelling units that may be located one over the other or side-by-side, including condominium units.

DWELLING, MULTI-FAMILY. A building containing three to four dwelling units that may be located one over the other or side-by-side, including condominium units.

DWELLING, SINGLE FAMILY. A building containing one dwelling unit that is not attached to any other dwelling by any means, including but not limited to manufactured homes as defined by RSA 674:31 and pre-site built homes as defined by RSA 674:31-a, and is surrounded by open space, yards, or trees.

EASEMENT. The authorization by a property owner for the use by another and for a specific purpose of any designated part of his/her property.

ESSENTIAL TOWN SERVICES. Municipal facilities such as Town Hall, police and fire stations, schools, libraries, maintenance and disposal facilities, etc.

EXCLUSIVE SHORELAND FRONTAGE. That portion of a servient waterfront lot that is set aside for the exclusive use of a non-waterfront lot or non-waterfront dwelling unit.

FACTORY OUTLET STORE. A building or unit devoted exclusively to the retail sale of commodities manufacture or produced on the same lot.

FALL ZONE. The area on the ground from the base of the ground mounted personal wireless service facility that forms a circle with a diameter equal to the height of the personal wireless service facility, including any antennas or other appurtenances. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

FAMILY. One or more persons living as a single housekeeping unit.

FRANCHISE ARCHITECTURE. Building designs and/or architectural elements that are trademarked or identified with a particular business, franchise, corporation or chain.

FRONTAGE. A lot dimension that is contiguous to (1) a public road; (2) a private road, (3) a body of water, other than access, provided that, in the case of shore lots, shoreland (or shoreline) frontage shall be

the average of the distances of the actual natural shoreline footage and a straight line drawn between property lines. Driveways to single rear lots shall not be construed as frontage. For lots with frontage on more than one street, street frontage setbacks shall be the dimensions measured from all such streets.

FUEL STORAGE. Any storage of fuel exceeding 2,000 gallons.

GARAGE, RESIDENTIAL. A building that is capable of storing up to 4 passenger motor vehicles and in which no occupation or commercial endeavor occurs.

GUYED TOWER. A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.

HAZARDOUS MATERIALS. See definition of “Toxic Materials.”

HISTORIC PRESERVATION SITE. A site, property, building(s), or area determined by the Heritage Commission to be an historic site, meeting certain criteria as established by the Commission, and determined to be worthy of preservation.

HOLDING TANK. A sealed tank with no outlet to a dry well or other effluent disposal area and which stores septage or other wastes until the wastes can be pumped out and hauled to an approved disposal site. A holding tank is not an individual sewage disposal system as defined in Env-Wq 1002.40.

HOME BASED CONTRACTOR YARD. An area and/or building used to store operable construction equipment, trucks, construction supplies, building equipment and raw materials for an individual or for a contractor engaged in one or more building or other construction business, including, but not limited to: plumbing, electrical, structural, finish, demolition, transportation, masonry, excavating, landscaping or other construction work. Normal maintenance of equipment is allowed in a contractor yard.

The definition of a home-based contractor yard shall not apply to those instances where materials are to be used for the improvement of the property on which the materials are stored, provided stored materials are used on-site or removed from the site within 180 days of delivery. The Building Inspector and Code Enforcement Officer are authorized to extend the 180-day limit.

For the purpose of this definition the following are not considered Home Based Contractor Yards but are considered an accessory use on a parcel where there is an existing residential use and the equipment described below is owned and operated by an occupant of the residence:

- One operational pick-up truck and associated plows, trailers, and similar equipment; or
- Up to three pieces of operational construction-related vehicles or equipment.

(Such accessory use is allowed and does not require registration with the Code Enforcement Officer.)

For the purpose of this definition the following are not considered Home Based Contractor Yards and, therefore, are not permitted by this Article:

- A junkyard as defined by State statute;
- Equipment or materials used for blasting.

HOMEOWNERS’ ASSOCIATION. A private corporation, association or other legal entity organized in accordance with state law and established by the developer for the benefit and enjoyment of its members.

HOUSING FOR OLDER PERSONS. Housing for older persons as provided by the Fair Housing Law

(42 U.S.C. 3601, et seq), as amended, having a similar definition as “housing for older persons” as defined under 42 U.S.C. 3607(b)(2), and further restricted and defined by RSA 354-A:15, as housing:

- A. Provided under any State or Federal program that is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or
- B. Intended for, and solely occupied by, persons 62 years of age or older; or
- C. Intended and operated for occupancy by persons 55 years of age or older, and
 - 1. One hundred (100) percent of the occupied units are occupied by at least one person who is 55 years of age or older, except surviving spouses, and no occupants are under the age of 19. When a unit is resold or rented, it must be occupied by at least one person who is 55 years or older.

In the event that an occupant who is 55 years of age or older dies or permanently leaves the dwelling unit due to disability, a surviving spouse under the age of 55 years shall be allowed to remain in the dwelling unit provided that any new occupant(s) to that unit must be 55 years or older;

- 2. The housing facility or community publishes and adheres to policies and procedures that demonstrate the intent to provide housing for persons 55 years or older; and
- 3. The housing facility or community complies with rules for verification of occupancy, which shall provide for verification by reliable surveys and affidavits in compliance with rules issued by the Secretary of the US Department of Housing and Urban Development.

HOTEL. Short-term lodging accommodations offered to the general public at a daily rate and supervised at all hours by a person-in-charge. All rooms are accessed through an inside lobby and interior corridors, and include private baths but no individual cooking facilities. May include the following accessory uses: restaurant, bar, tavern, meeting/function rooms, and/or recreational facilities such as pools, fitness facilities, etc. May include food service to registered guests and the general public.

IMPERVIOUS SURFACE COVERAGE. Any surface that cannot effectively absorb or infiltrate rainfall, including but not limited to structures; paved and unpaved parking areas, driveways and walkways.

INDUSTRIAL & LIGHT INDUSTRIAL. Industrial activity involving the manufacturing, packaging, assembly, or wholesale distribution of finished products from previously prepared material, including but not limited to: bakeries, bottling, pharmaceutical, machine shops, precision instruments, watchmakers, musical instrument construction, toys and sporting goods construction, pottery and ceramics using only previously pulverized clay, wood products, jewelry, assembly of electrical components, canteen services, tool and die shops, and the packaging of foods. Light Industrial uses also include a self-storage facility, and industrial activity involving research and development and/or the manufacturing, packaging, assembly, wholesale distribution, warehousing and/or storage of finished products. Light Industrial uses do not include the processing of raw materials or salvaging operations, shall discharge no hazardous or toxic waste on site, and must be environmentally non-polluting. Light Industry does not include on site packaging or assembly operations that are part of a business whose primary purpose is retail sales of goods.

All light industrial uses located on Route 16 shall be shielded from view by use of a natural woodland buffer or other screening method as approved by the Planning Board.

IN-LAW APARTMENT. A portion of an owner-occupied single-family dwelling, or related accessory structure, to be occupied by another family member, a caregiver or caretaker, which includes its own kitchen, bathroom and living area.

INN. A structure and related accessory structures, either attached to or detached from the primary structure, in which the live-in owner or manager provides up to 16 guest rooms to the general public at a daily rate or on a short-term basis of less than 30 days. Guest rooms may have private or shared baths. May include the serving of on-site prepared meals to registered guests and the general public.

LATTICE TOWER. A type of mount with multiple legs and structural cross bracing between the legs that is self-supporting and freestanding.

LAUNDROMAT: A facility where patrons and/or employees wash, dry, and/or fold clothing or other fabrics. Does not include on premise dry cleaning.

LOT. An area of land of limited size whose present or future use entails a structure used as a residence or for other approved purposes.

LOT – DWELLING UNIT LOT. A parcel of land subdivided within a (parcel lot) capable of being used for a residential dwelling unit that is of sufficient size to meet the minimum requirements for use, building coverage, and area.

LOT – FLAG. A lot having reduced frontage requirements where the sole access to the lot takes the form of the pole of the flag and the main portion of the lot takes the form of the flag attached to the pole. The area of the pole is not included in the minimum lot area calculation. Only one such lot is permitted per parent parcel.

LOT OF RECORD. Any lot containing a separate and distinct description as of the adoption of this Ordinance.

LOT – PARCEL LOT. A parcel of land capable of being occupied that is of sufficient size to meet the minimum requirements for use, building coverage, and area.

MARINA. A business establishment having frontage on navigable water and its principal use providing for hire off shore moorings or docking facilities for boats, and which may also provide accessory services such as boat repair and construction, boat and related sales, indoor and outdoor storage of boats and marine equipment, bait and tackle shops, and marine fuel service facilities.

MIXED-USE. The use of a property that includes a business use and a residential use.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. “Manufactured Home” shall include “manufactured housing” as defined pursuant to RSA 674:31. For floodplain management purposes the term “manufactured home” includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 days.

MAST (in relation to personal wireless service facilities). A thin pole that resembles a streetlight

standard or a telephone pole. A dual-polarized antenna is typically deployed on a mast.

MIXED USE BUILDINGS. A building containing two or more units, which units are capable of being used for business, commercial and/or residential purposes.

MONOPOLE (in relation to personal wireless service facilities). A thicker type of mount than a mast that is self-supporting with a single shaft of wound steel or concrete or other material that is designed for the placement of antennas and arrays along or within the shaft.

MOTEL/ MOTOR INN. Same requirements as for “Hotel,” except some or all guest rooms are accessed directly from the exterior of the structure, and not necessarily supervised at all hours by a person-in-charge.

MUNICIPAL WASTEWATER SYSTEM. A wastewater collection, treatment, and disposal system that is owned and operated by a municipality.

MUSEUMS. An establishment operated as a repository or collection of nature, scientific, or literary curiosities or objects of interest or works of art. Museums may have gift shops, but the primary purpose is the display of objects for public benefit, not retail sales.

NANO BREWERY. A brewery that produces less than 2,000 barrels (63,000 gallons) a year.

NATURAL CONDITION. The topography and vegetation of an area that is unaltered by clearing and grading during construction and protected in perpetuity.

NON-CONFORMING USE. A use that does not conform to the regulations herein, but which was lawfully maintained at the time this Ordinance (or amendment thereto that rendered the use non-conforming) became effective.

NON-CONFORMING STRUCTURE. A structure that does not conform to the regulations herein, but which was lawfully maintained at the time this Ordinance (or amendment thereto that rendered the structure non-conforming) became effective.

NON-POINT SOURCE POLLUTION. Pollution that is generated by various land use activities rather than from an identifiable or discrete source and is conveyed to waterways through natural processes such as rainfall, storm water runoff, or groundwater seepage rather than direct discharges.

OFFICE. A room or group of rooms used for conducting the affairs of a business, profession, service industry, or government.

OPEN SPACE. A portion of a development site that is permanently set aside for public or private uses, and will not be developed. Said open space may be composed of Conservation Area Open Space and/or Homeowners’ Recreation Area Open Space.

OPEN SPACE – CONSERVATION AREA. Typically, an undisturbed or naturally vegetated portion of a development site that is permanently set aside for public or private use and will not be developed.

OPEN SPACE CONSERVATION/CLUSTER DEVELOPMENT SUBDIVISION. A subdivision that sites houses on smaller dwelling unit lots with a density that will not exceed the density permitted in conventional subdivision. Additional land that would have been allocated to individual lots is converted

to common shared Open Space for the subdivision residents and/or the community. It is protected in perpetuity. Typically, road frontage, lot size, setbacks and other traditional subdivision regulations are redefined to permit the developer to preserve ecologically sensitive areas, historical sites or other unique characteristics of the land being subdivided.

OPEN SPACE – HOMEOWNERS’ RECREATION AREA. The area of Open Space remaining after the Open Space Conservation Area has been designated. The area may be used for passive or active recreation or storm water management.

OUTDOOR WOOD-FIRED HYDRONIC HEATER. The device described in RSA 125-R:1, V, including outdoor wood boilers, generally and collectively referred to as “OWHH.” These are also called outdoor wood-fired heaters and outdoor wood furnaces.

PARKING FACILITY. The use of land which constitutes the principal use, for the temporary parking of motor vehicles including but not limited to a parking lot, a parking structure, or a parking garage.

PREMISES. The area occupied by a business or other public enterprise. When more than one business occupies a single building or lot, each business area shall be considered separate premises.

RECIPIENT LOT OR RECIPIENT DWELLING UNIT. A lot or dwelling unit (usually, but not exclusively, a non-waterfront lot or dwelling unit) located in Wakefield, NH that has the benefit of a grant, lease, easement or other conveyance of a right for water access over another lot.

RECOGNIZED PHYSICAL DISABILITY. A factual finding made by the Zoning Board of Adjustment that will allow the Zoning Board of Adjustment to grant a variance from the terms of a Zoning Ordinance without finding a hardship arising from the condition of a premises subject to the Ordinance, when reasonable accommodations are necessary to allow a person or persons of advanced age or with such recognized physical disability to reside in or regularly use the premises, provided that any variance granted under this paragraph shall be in harmony with the general purpose and intent of the Zoning Ordinance. In granting any such variance, the Zoning Board of Adjustment may provide, in a finding included in the variance, that the variance shall survive only so long as the particular person with the recognized physical disability has a continuing need to use the premises. It is contemplated this provision (as codified in RSA 674:33, V) will be invoked when, for example, a need arises for a so-called “mother-in-law apartment” to care for an aged or ailing relative, or when a person having a recognized physical disability requires alterations to the premises to accommodate such disability, which alterations might otherwise be precluded.

RECREATIONAL CAMPGROUND OR CAMPING PARK. A parcel of land under single ownership, consisting of a minimum of ten (10) acres used primarily for transient or temporary occupancy for recreational dwelling purposes only, and not for permanent year-round residence, excluding camps set apart for recreational purposes for boys and girls.

RESIDENCE. A structure designed for residential occupancy by one or more families, but excluding hotels, motels, tourist homes and overnight cabins.

RESIDENTIAL. Restricted to or occupied by residences.

RESTAURANT. Any establishment, however designated, at which prepared food and/or drink is sold for immediately consumption, usually to patrons seated within an enclosed building. Neither a snack bar nor a bed and breakfast shall be deemed to be a restaurant.

RESTAURANT, STANDARD. A restaurant that is neither a “restricted restaurant,” nor a “drive-thru restaurant.”

RESTAURANT, DRIVE-THRU. A restaurant designed, in whole or in part, to cater to or accommodate the consumption of food and/or beverage in automobiles on or off the premises of such establishment. Typically, but not always, a drive-thru restaurant will have a window from which patrons may purchase and obtain food without exiting their automobile.

RESTAURANT, RESTRICTED. A restaurant that can accommodate 60 or fewer patrons, is open not more than 5 days per week, is 3500 sq. ft. or less, provides no “take out” service, and serves not more than 2 meals per day. Typically, but not always, a restricted restaurant is a “mom and pop” venture located in a residence that is converted into a restaurant, and serves only sit-down meals. They usually offer home cooking, or nouveau or “niche” cuisine, and are often seasonal.

RIDGELINE, MAJOR. A ridgeline that is prominently visible from an open space, waterway or roadway within the town. A major ridgeline is characterized by the lack of a topographical backdrop, i.e. where the sky is visible beyond the ridge. Identified major ridgelines shall include but not be limited to the following: Ballards Ridge, Copp Hill, Cooks Hill, Davis Hill, Foggs Ridge, Long Mountain, Oak Hill, Perkins Hill, Pray Hill, and Province Mountain.

SEASONAL DWELLING. A dwelling unit, or structure containing a roof and that may contain cooking, sleeping, and/or sanitary facilities whose primary use or occupancy is or has been for less than nine (9) months out of twelve (12) consecutive months.

SECURITY BARRIER. A barrier that restricts an area from unauthorized entry or trespass.

SEPARATION (in relation to personal wireless service facilities). The distance between one carrier’s antenna array and another carrier’s antenna array.

SERVIENT WATERFRONT LOT. A lot that is contiguous to the shoreline of any lake, pond or watercourse, and which is subject to a grant, lease, easement or other conveyance of a right that provides water access to any other lot.

SETBACK. The distance from the edge of a lot to a structure or other temporary or permanent obstruction. For purposes of administering and interpreting this definition, the purpose of the area of a setback is to promote the public health, welfare and safety by, among other things, providing a buffer between contiguous properties, providing open space and access between buildings and other obstructions, promoting fire safety, and promoting aesthetics to preserve property values. The typical setback area is to remain free of all structures, as well as man-made and manufactured items such as parking lots, motor vehicles, equipment and debris, but may include items generally necessary for inclusion in the setback area, by way of example, access (e.g. driveway), boundary designation (e.g. fence), overhead or underground utilities, mailbox, boat dock, etc.

SETBACK, FRONT. A setback extending across the full width of a lot between the front lot line and the foremost point of the foremost structure excluding steps and septic systems.

SETBACK, REAR. A setback extending across the full width of a lot between the rear lot lines and the rear most part of the structure nearest to the rear lot line excluding steps and excluding septic systems.

SETBACK, SIDE. A setback extending between a side lot line and the nearest structure to it extending from the required rear setback, and excluding *steps and* septic systems.

SEWAGE DISPOSAL SYSTEM. Any onsite sewage disposal or treatment system that receives either sewage or other wastes, or both. For the purposes of this definition, this means all components of the system, including the leach field.

SIGN. Any structure, device, lighting fixture or natural object including the ground itself or any part thereof or any device attached thereto, or painted or represented thereon, which shall be used to identify, advertise, or attract attention to any object, product, place, activity, person, institution, organization, firm, group, commodity, profession, enterprise, industry, or business, or which shall display or include any letter, word, model, number, banner, flag, pennant, insignia, device or representation used as in announcement, direction or advertisement, and which is intended to be seen from off the premises or from a parking lot. The word "sign" shall not include the structure that supports the sign face, but only the sign face itself. The word "sign" shall not include signs that are affixed to the inside of windows and glass doors of enclosed buildings except for illuminated signs.

In addition to the above, the following types of signs shall be further defined as follows:

- A. **Free Standing sign:** A sign supported by one or more uprights, poles, or braces placed in or upon the ground.
- B. **Illuminated Sign:** A sign that provides artificial light directly or through any transparent or translucent materials, from a source of light connected with such sign or a sign illuminated by a light focused upon or directed chiefly at the surface of the sign.
- C. **Off-Premises Advertising Sign:** A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.
- D. **Permanent Sign:** Any sign that is not a temporary sign.
- E. **Portable Sign:** A sign that is placed, erected or constructed on any movable or portable base, sled, trailer, vehicle, stand or device of any type where the principal use of such base, sled, trailer, vehicle, stand or device is for the purpose of displaying a sign face which is capable of being moved or transported from one location to another.
- F. **Projecting Sign:** A sign that projects from, and is supported by a wall, porch of any other part of a building.
- G. **Roof Sign:** Any sign erected and maintained upon or above the roof of any building.
- H. **Temporary Sign:** A sign constructed of cloth, canvas, fabric, wood, paper or other similar material with or without a structural frame and intended for a limited display.
- I. **Wall Sign:** A sign, which is attached directly to, or painted upon, a building wall and which does not extend more than ten (10) inches therefrom, nor extend above the roof line.

SIGN AREA. The total area of the sign faces including any framing surrounding the face. The area of the supports, posts, poles and braces or other supporting structure shall not be included as part of the sign

area. On dual-faced signs only the area of one sign face (the largest face) shall be used in calculating the total sign area. When individual letters are mounted separately on the surface of a building wall, the spaces between the letters shall be included in calculating the area of the sign. When signs are constructed of separate parts, such as separate boards attached to a post or hung together by hooks, the space between the boards shall be included in calculating the total sign area.

SLOPE. The average steepness of the land surface under consideration. For determining lot size categories, Natural Resource Conservation Service slope ranges shall be used. Slope shall be determined by the preparation of a topographic plan or by on-site measurement through the use of a clinometer.

SLOPE – STEEP SLOPE LAND. Land with slopes of 25% or more.

SNACK BAR. A food service facility located at a public or community playground, playfield or park operated solely by the agency or group operating the recreational facilities, and for the convenience of the patrons of the facility.

SOIL CARRYING CAPACITY. The ability of the soil to accommodate a sewage disposal system as determined by dividing the given area of each soil type by the required area per State standards.

STORMWATER MANAGEMENT. The use of structure or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes and/or peak flow discharge rates.

STRUCTURE. Anything constructed or erected with a fixed location on or in the ground or attached to something having a fixed location on or in the ground, excluding patios, driveways, walkways, parking lots, whether paved or not; fences; flagpoles less than 45 feet in height; and walls less than 3.5 feet in height which do not obstruct a driver's line of sight.

STRUCTURE, TEMPORARY. A structure without any foundation or footing and removed when the designed purpose or use has ceased. The structure shall not be connected to water or sewer. Examples include a Quonset hut, portable shelter, portable garage, moving/storage container (i.e. PODS[®]), portable shed, etc. A temporary structure shall not include a storage trailer or tractor trailer unless it is completely shielded from public (including neighbors') view by permitted structures, distance, and/or vegetation.

TOXIC MATERIALS. Any substance or mixture of such physical, chemical, or infectious characteristics as to pose a significant, actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged to land or waters of this Town. Toxic or hazardous materials include, without limitation, volatile organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkyds, asphalt and roofing tars, and include products such as pesticides, herbicides, solvents and thinners, and such other substances as defined in New Hampshire Water Supply and Pollution Control Rules, Section Wq 410.04(1), in New Hampshire Solid Waste Rules He-P 1901.03(v), and in the Code of Federal Regulations 40 CFR 261. Wastes generated by the following commercial activities are presumed to be toxic or hazardous, unless and except to the extent that any one engaging in such an activity can demonstrate the contrary to the satisfaction of the Planning Board:

- A. Chemical and bacteriological laboratory operation, including laboratory operations in educational Institutions;
- B. Dry cleaning and laundries;

- C. Electronic circuit manufacturing;
- D. Metal plating, finishing and polishing;
- E. Painting, wood preserving and furniture stripping;
- F. Pesticide and herbicide application;
- G. Photographic and printing processes;
- H. Medical facilities, including doctor's offices and hospitals;
- I. Funeral homes, parlors, and embalmers.

UNBUILDABLE LAND. The area of a site that includes steep slopes; wetland soils; rock outcrops; floodplains; proposed or existing rights-of-way; drainage and utility easements; and state and local required setbacks as they apply to the parent parcel.

UNIT. An area within a building that is separated by solid walls from other portions of the building and which is capable of being sold or leased.

YARD SALE. The sale of assorted items, usually second hand, at noncommercial premises. The term "yard sale" shall include garage sale, porch sale, barn sale, cellar sale, tag sale, et cetera. "Yard Sale" shall not include "Yard Sale Business."

YARD SALE BUSINESS. The sale of assorted items, usually second hand, at noncommercial premises, which occurs more frequently than (1) three weekends, (2) five consecutive weekdays, or (3) six days total of any calendar year. This term applies also to the following types of sales when they exceed the above-described frequencies: garage sale, porch sale, barn sale, cellar sale, tag sale, and etcetera. "Yard Sale Business" shall not include "Yard Sale."

ARTICLE 34 – USES AND STRUCTURES NOT PERMITTED ARE PROHIBITED

Any use or structure that is not listed in this Ordinance as a permitted use or structure, or that is not listed as a use or structure permitted by Special Exception, is prohibited.

ARTICLE 35 – SPLIT ZONE LOTS.

- A. **BASE ZONES.** In the event that a lot is divided by a base zoning district boundary, each section of the lot shall be used in conformity with the regulations of the base zoning district in which it lies. The regulations of either base zoning district may be extended into the other district up to one hundred (100) feet by an application for Special Exception. The application shall include the specifics of the use proposed for the lot, and any approval issued shall be contingent upon the lot being used for the stated purpose. In the absence of specific language to the contrary issued by the Zoning Board of Adjustment as part of any approval issued, the base zoning district boundary shall revert to its original location upon termination of the proposed use.
- B. **OVERLAY ZONES.** Overlay zones by their nature do not adhere to lines of property ownership

and regularly divide lots. Any portion of a lot that is within one or more overlay zone(s) shall comply with the regulations of the overlay zone(s).

ARTICLE 36 – PERMIT REQUIRED

A permit shall be obtained from the administering authority prior to undertaking any activity regulated by this Ordinance, or for the construction, erection, alteration, movement, or placement of any structure. The administering authority shall ensure that the proposed use or structure meets all the requirements of this Ordinance. Provided, however for a one-story detached unheated accessory structure (i.e. Tool shed, storage shed, children’s playhouse) not exceeding 200 sq.ft., the administering authority shall issue a permit provided the structure complies with applicable setback requirements.

ARTICLE 37 – SEPARABILITY

If any section, provision, portion, clause, or phrase of this regulation is held to be invalid or unconstitutional by any court of competent authority, such holding shall not affect, impair, or invalidate any other section, provision, portion, clause, or phrase of this regulation.

ARTICLE 38 – CONFLICT WITH OTHER REGULATIONS

Where the provisions of this Ordinance conflict with any local, state, or federal rule, ordinance, or regulation, the provision imposing the more stringent standard shall apply.

ARTICLE 39 – ADMINISTRATION, ENFORCEMENT AND PENALTY

The Wakefield Town Selectmen or their duly authorized representative is hereby designated to administer, implement, and enforce the provisions of this Ordinance, in accordance with the New Hampshire Revised Statutes Annotated, as amended. Penalties for violation of this Ordinance shall be as provided for by RSA 676:17, and other statutes, as amended.

ARTICLE 40 – RESERVED

ARTICLE 41 – DATES OF ENACTMENT & AMENDMENT

Adopted March 11, 1986

Amended March 10, 1987

Amended March 14, 1989

Amended March 13, 1990

Amended March 12, 1991

Amended March 10, 1992

Amended March 9, 1993

Amended March 12, 1994

Amended March 14, 1995

Amended March 11, 1996

Amended March 9, 1999

Amended March 14, 2000

Amended March 13, 2001

Amended March 12, 2002

Amended March 11, 2003

Amended March 9, 2004

Amended March 8, 2005

Amended March 14, 2006

Amended March 13, 2007

Amended March 11, 2008

Amended March 10, 2009

Amended March 9, 2010

Amended March 8, 2011

Amended March 13, 2012

Amended March 12, 2013

Amended March 11, 2014

Amended March 10, 2015

Amended March 8, 2016

Amended March 14, 2017